

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 229 of 2021

1. Jamuna Prasad Suryawanshi S/o Late D.R. Suryawanshi Aged About 61 Years Presently Working as In-Charge Chief Municipal Officer, Nagar Panchayat- Dabhara, Block Dabhara, District- Janjgir- Champa, Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through Its Secretary/under Secretary/deputy Secretary, Department of Urban Administration and Development, Mantralaya, Mahanadi Bhawaan, Naya Raipur, Atal Nagar, District-Raipur, Chhattisgarh.
2. Director, Department of Urban Administration and Development, Directorate, Indrawati Bhawaan, Naya Raipur, Atal Nagar, District-Raipur, Chhattisgarh.
3. Joint Director Department of Urban Administration and Development, Regional Office, Bilaspur, District- Bilaspur, Chhattisgarh.
4. Collector, Janjgir-Champa District- Janjgir Chamapa, Chhattisgarh.
5. President, Nagar Panchayat- Dabhara, District Janjgir- Champa, Chhattisgarh.

---Respondents

For Petitioner	:	Shri Pawan Shrivastava, Advocate.
For State	:	Shri Vivek Ranjan Tiwari, Addl. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03.02.2021.

1. The challenge in the present writ petition is to the order of suspension dated 11.12.2020 issued against the petitioner.
2. The petitioner has alleged malafides on the petitioner being placed under suspension. According to the petitioner he was on an earlier occasion transferred frequently and finally was transferred on 30.07.2019 which was subjected to challenge before this court vide WPS No.6026 of 2019. That the High Court vide order dated 13.08.2019 disposed of the writ petition granting interim protection to the petitioner from the transfer and directing the State authorities to decide the representation. His representation subsequently was rejected vide order dated 05.05.2020.

The order dated 05.05.2020 was again subjected to challenge in writ petition being WPS No.2069 of 2020 and the High Court vide order dated 10.06.2020 again stayed the effect and operation of the rejection of the representation filed by the petitioner by virtue of which the petitioner continues on the present place of posting and according to the petitioner just to overcome the order passed by this Court and victimizing the petitioner the authorities have arbitrarily without any basis have placed the petitioner under suspension vide impugned order dated 11.12.2020.

3. The counsel for the petitioner further submits that the petitioner has already reached the age of retirement and has to retire w.e.f. 30.06.2021 and just before retirement the petitioner has been malafidely placed under suspension and by which the retiral dues payable to the petitioner also would get affected.
4. Perusal of impugned order would reveal that there was a complaint received by the authorities in respect of functioning of the petitioner and based upon the said complaint the petitioner's services has been placed under suspension. The complaint is in respect of both dereliction of duty as also in respect of financial mismanagement.
5. Taking into considering the nature of complaint and the reasons assigned in the order of suspension, this court is of the opinion that it would not be justified on the part of this Court in exercise of its power of judicial review under Article 226 of the Constitution of India to look in to the veracity and the genuineness of the complaint or allegations by virtue of which the petitioner has been placed under suspension. The proper course for the petitioner would be to make a detailed explanation/reply/representation to the respondent No.1 in respect of allegations that are made against the petitioner. The petitioner should also produce all relevant documentary or

other evidences that he has in respect of the allegations. The respondent No.1, in turn, on receipt of said explanation/reply/representation, shall duly consider the same objectively and decide whether it is necessary for continuing the petitioner under suspension or not and an order in this regard should also be passed at the earliest within a period of 45 days from the date the petitioner submits his explanation/representation. The respondent No.1 should ensure that a decision is taken within the prescribed time given by this court taking into consideration the fact that the petitioner is going to retire w.e.f. 30.06.2021.

6. With the aforesaid direction, the writ petition stands disposed of. No order as to costs.

Sd/-
(P. Sam Koshy)
Judge

inder