

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 666 of 2021**

1. Lakhan Lal Chandra S/o Late Moahan Lal Chandra Aged About 59 Years
Posted As Teacher And Incharge Head Master (Sankul) incharge Jaijaipuir,
District Janjgir- Champa, Chhattisgarh, **---- Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, School Education
Development Department, Mantralaya, Mahanadi Bhawan Atal Nagar,
Naya Raipur, District Chhattisgarh
2. Divisional Joint Director Directorate, Public Instructions, Indrawati
Bhawan, Atal Nagar, Naya Raipur, District Raipur, Chhattisgarh,
3. District Education Officer Sakti, District Janjgir- Champa, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Yogesh Kumar Chandra, Advocate
For State	:	Mr. Amit Buxy, P.L. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****17.02.2021**

1. The challenge in the present writ petition is to the order of suspension dated 09.09.2020.
2. The petitioner in the present writ petition is working on the post of Upper Division Teacher under the respondents and was posted at Govt. Girls Middle School Jaijaipur. On account of a newspaper Article wherein there was a complaint reflected against the petitioner demanding money from those persons who are interested to remain at Girls English Medium Middle School Jaijaipur.
3. The District Education Officer i.e. the respondent No. 3, vide the order

Annexure P/1 has placed the services of the petitioner under suspension w.e.f. 09.09.2020.

4. The present writ petition has now been filed on 20.01.2021 i.e. after a period of about four months from the date the order of suspension. The challenge to the writ petition is on the solitary ground that the District Education Officer i.e. the Respondent No. 3 was not competent to place the petitioner under suspension. Referring to a circular of the State Government dated 23.11.2010, the Petitioner submits that the power so vested is only with the Joint Director and not with any other persons or authority, therefore the order of suspension is bad.
5. The State Counsel opposing the petition however submits that it is a case where the petitioner was promoted to the post of Upper Division Teacher by an order of the Respondent No. 3 i.e. the District Education Officer and now the order of suspension has also been issued by the same authorities and it cannot be said that the respondent No. 3 was not competent to place the petitioner under suspension. It is also the contention of the State Counsel that the circular dated 13.11.2019 empowering the power of suspension upon the Joint Director is an Additional arrangement that has been made which would not restrict the power of placing an employee under suspension exercised by the appointing authorities in this case the person who has issued the order of promotion, which in the instant case is the District Education Officer.
6. Having heard the contention put forth on either side, during the course of hearing, it has been reflected that the petitioner also has subsequently been issued with a charge-sheet on 14.10.2020, to which the petitioner has also given a detailed reply and the enquiry

proceedings is still not concluded.

7. Given the subsequent development that has transpired, this Court at this juncture would not like to interfere with the order of suspension. However, what has to be seen is that the order of suspension was passed as early as on 09.09.2020, now more than four months have already lapsed.
8. Recently, the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary v. Union of India {(2015) 7 SSC 291} in paragraph-21 of the judgment is reproduced here-in-under:-

21. "We, therefore, direct that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension.

9. From the perusal of the aforesaid observation of the Hon'ble Supreme Court, it becomes necessary for all the authorities to revisit the order of suspension in-connection-with all those employees who have remained under suspension for a period of more than 90 days and in the instant case, it has been more than five months.
10. In view of the same, keeping in view the observation of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary (Supra), the writ petition at this juncture is disposed of directing the respondent No. 3 to reconsider the case of the petitioner so far as the order of suspension is concerned and to decided as to whether it is anymore required of keeping the petitioner under suspension or not. Let a decision be taken at the earliest preferably within a period of 45 days from the date of

receipt of copy of this order.

11. The writ petition accordingly stands disposed off, with the aforesaid observation.

Sd/-

**P. Sam Koshy
Judge**