

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWPIL No. 82 of 2021

- Shyam Murat Kaushik S/o Shri Mitlal Kaushik Aged About 49 Years R/o Village Dhandhan, Police Station Takhatpur, District Bilaspur Chhattisgarh At Present General Secretary Pradesh Kurmi Samaj Bilaspur District Bilaspur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Education, Mahanadi Bhawan, Mantralaya, Atal Nagar District Raipur Chhattisgarh
2. Director Directorate Public Instruction Chhattisgarh Raipur District Raipur Chhattisgarh
3. Hemant Upadhyay Presently Posted As District Education Officer, Rajnandgaon District Rajnandgaon Chhattisgarh
4. E. R. Kapale Under Secretary, School Education Department, Chhattisgarh Government Secretariat Mahanadi Bhawan, Atal Nagar Raipur Chhattisgarh

---- Respondent

For Petitioner	Mr. B.K. Chakraborty, Advocate
For Respondent/State	Mr. Chandresh Shrivastava, Dy. AG

Proceedings through Video ConferencingDB.: Hon'ble Mr. Prashant Kumar Mishra, Ag. C.J &Hon'ble Mrs. Rajani Dubey, J.Order on Board on Prashant Kumar Mishra, Ag. C.J.27/7/2021

1. Heard.
2. In this writ petition in the nature of PIL, the petitioner has prayed for a direction to the respondent authorities to initiate departmental proceedings against the respondent No.3, who is presently posted as District Education Officer, Rajnandgaon.
3. According to the petitioner, the respondent No.3 has committed embezzlement/misappropriation of public funds and the concerned Minister had directed for an enquiry but the same has neither been initiated nor completed, therefore, appropriate Departmental Enquiry should be conducted against the respondent No.3.
4. On an earlier occasion, the petitioner preferred WP(C) No.1080/2020, which has been dismissed, as not maintainable by order dated 26.5.2020. The same reads under :

“1. The present Writ Petition has been filed by the Petitioner seeking for the following reliefs :-

(i) That, this Hon'ble Court may kindly be pleased to issue an appropriate writ by directing the respondent no. 1 to 2 to takenecessary steps upon complaint of the petitioner according to the law laid down by Hon'ble Court in the case of Lalita Kumar Vs. Stateof U.P., in the interest of justice.

(ii) That, this Hon'ble Court may kindly be pleased to grant compulsory retirement to respondent no.3 for medically unfit, in the interest of justice.

(iii) That, this Hon'ble Court may kindly be pleased to register FIR against respondent no.3 due to more than Rs. 3,00,000/-

has embezzlement for expenses of Govt. fund amount, and may kindly be pleased to recover the expenses amount from respondent no.3, in the interest of justice.

(iv) That, this Hon'ble Court may kindly be pleased to direct the respondent authorities to take departmental action against the respondent no.3, in the interest of justice.

(v) That, this Hon'ble Court may kindly be pleased to direct the respondent authorities for departmental inquiry action against the respondent no.3 during service of the respondent no.3 at Bilaspur, in the interest of justice."

2. At the outset, this Court is of the opinion that the present Writ Petition would not be maintainable for the reason that it is not a petition which has been filed challenging any of the constitutional rights of the Petitioner which has been adversely affected. Perusal of record does not show any of the fundamental rights of the Petitioners getting infringed which compelled him to approach this Court. It appears that the Petitioner has filed the present Writ Petition primarily seeking for a relief against the Respondent No.3.

3. Given the fact that none of the constitutional rights of the Petitioner have been adversely affected, the present Writ Petition in its present form would not be maintainable.

4. The Writ Petition accordingly stands dismissed as not maintainable."

5. It is the settled position of law that the writ petition (PIL) is not maintainable in service matters. (See **Dr. Duryodhan Sahu and others vs. Jitendra Kumar Mishra and others, (1998) 7 SCC 273.**

6. The petitioner is basically raising a grievance relating to the illegality or embezzlement committed by the respondent No.3 in the capacity of the District Education Officer, which is purely a

service matter concerning the respondent. Therefore, the writ petition (PIL) is not maintainable.

7. Accordingly, the WP(PIL) is dismissed. However, dismissal of the Writ Petition (PIL) would not come in the way of the State Government if it desires to take any action in accordance with law.

Sd/-

(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-

(Rajani Dubey)
Judge

Gowri