

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 398 of 2018**

- Vijay Masrani S/o S/o Bhupat Roy Masrani Aged About 54 Years Occupation Sahayak Teacher Shaskiya Anudan Prapt Shri Gujrati Shikshan Sangh K. K. Road Maudhapara, Raipur, Through Sanchalit Shri Gujrati Prathmik School Devendra Nagar, Raipur, Residence E- 13, Sector-2 Devendra Nagar, Raipur, District Raipur, Chhattisgarh.

---- Petitioner**Versus**

- Shri Prakash Patel (Lok Sewak) Pradhan Pathak Shri Gujrati Prathmik School, Devendra Nagar, Raipur, District Raipur, Chhattisgarh.

---- Respondent**WPCR No. 399 of 2018**

- Vijay Mashrani S/o Bhupat Ray Mashrani, Aged About 54 Years Occupation Sahayak Teacher Shaskiya Anudan Prapt Shri Gujrati Shikshan Sangh K. K. Road Maudhapara, Raipur, Through Sanchalit Shri Gujrati Prathmik School Devendra Nagar, Raipur, Residence E- 13, Sector-2 Devendra Nagar, Raipur, District Raipur, Chhattisgarh.

---- Petitioner**Versus**

- Shri J. Kujur (Lok Sewak), Vikashkhand Shikcha Adhikari, Abhanpur, District Raipur Chhattisgarh.,

---- Respondent

For petitioner : Petitioner in person along with Advocate Mr. Qamrul Aziz, Advocate.

For respondent : Mr. Vipin Tiwari, Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas**Order on Board****27-08-2021**

1. As both the aforesaid petitions involve a common question of law, they are heard analogously and are being disposed of by this common order.

2. The petitioner, who is a Teacher of Aided School, Gujrati Primary School, Devendranagar, Raipur, has filed the present writ petitions (cr) under Article 226 of the Constitution of India against the respondents who are Principal and Block Education Officer, alleging that they have committed certain irregularities while working which do not fall within the ambit of official duty, therefore, they have committed offence under Section 22(b) of the CG Vinidrisht Brashta Acharan Adhindiyaamn, 1982, therefore, he has filed the instant petitions for registration of complaint under Section 420 of IPC against the respondents.
3. Learned counsel for the respondents would raise objection that the present writ petitions (cr) are not maintainable as the petitioner has alternate and efficacious remedy available to him by filing complaint before the concerned Judicial Magistrate First Class under Section 156(3) or 200 of Cr.P.C. He would further submit that since the respondents are Principal and Block Education Officer of the aided institution, therefore, respondents being public servants, permission is required very much under Section 197 of Cr.P.C., from the appropriate authority to make a complaint against them and without obtaining the permission from the appropriate authority, complaint would not be maintainable.
4. I have heard learned counsel for the parties and perused the record.

5. From perusal of reliefs sought, it is quite clear that the petitioner wants that the FIR should be registered against the respondents for which the petitioner has remedy of filing a complaint before the concerned Judicial Magistrate First Class under Section 156(3) or 200 of the Cr.P.C.
6. The Hon'ble Supreme Court in case of **Sakiri Vasu Vs. State of Uttar Pradesh & others**¹, has examined the issue holding that the petitioner has remedy of filing of complaint before the concerned Judicial Magistrate First Class under Section 200 of the Cr.P.C. The Supreme Court has again considered and decided the issue in **Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and M. Subramaniam & another Vs. S. Janaki & another**².
7. Considering the facts and materials on record and in the light of the law laid down by Hon'ble the Supreme Court in the above cited judgments, the present writ petition filed under Article 226 of the Constitution of India is disposed of with liberty to the petitioner to file a complaint under Section 156(3) or 200 of the Cr.P.C. before the court of Judicial Magistrate First Class having jurisdiction over the place of offence and in-turn Magistrate shall follow the procedure prescribed under the provisions of the Cr.P.C.
8. The objection raised by the respondents with regard to permission of the appropriate authority before making a complaint is to be examined by the Judicial Magistrate First Class while considering the complaint.
9. In view of the above, the instant writ petition is allowed with liberty granted in favour of the petitioner to file complaint under Section 156(3) or 200 of the Cr.P.C.

Sd/-

(Narendra Kumar Vyas)
Judge

Raju

1 (2008) 2 SCC 409

2 (2020) 16 SCC 728