

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5547 of 2021**

- Vishnu Prasad Sunhale S/o Late Shri Ganesh Ram Sunhale, Aged About 35 Years R/o Village Neur, Tehsil Pandariya, P.S. Kukdur, District Kabirdham Chhattisgarh,

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Panchayat And Rural Development Department, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, Raipur Chhattisgarh,
2. Chief Executive Officer, Zila Panchayat Kabirdham, District Kabirdham Chhattisgarh,
3. Sub Divisional Officer (Revenue), Pandariya, District Kabirdham Chhattisgarh,
4. Janpad Panchayat, Kabirdham Through The Chief Executive Officer, Kabirdham, District Kabirdham Chhattisgarh,

---- Respondents

For Petitioner	:	Shri Prateek Sharma, Advocate.
For Respondents 1 & 3/State	:	Ms. Binu Sharma, Panel Lawyer.

Hon'ble Shri Justice Sanjay S. Agrawal**Order on Board****20.10.2021**

1. By way of this petition filed under Article 226 of the Constitution of India, the Petitioner is questioning the propriety of the order impugned dated 06.09.2021 (Annexure P/1) passed by Respondent No.2/Chief Executive Officer, Zila Panchayat, Kabirdham in exercise of the powers provided under the Rules known as Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999 (henceforth, the Rules, 1999), whereby the petitioner has been placed under suspension.

2. At the outset, the order impugned appears to be appealable as per the provisions prescribed under Rule 15 of the Rules, 1999, which provides as under:

“15. Appeals against order of suspension or orders imposing penalties.---- (1) A member of the Panchayat Service may appeal against an order of suspension or an order imposing any penalty on him to the authority specified as appellate authority in the Appendix appended to these rules within a period of 90 (ninety) days from the date on which he receives the order :

Provided that the appellate authority may entertain an appeal after expiry of the said period if it is satisfied that the appellant has had sufficient cause for not submitting the appeal in time.

(2) Every person submitting an appeal shall do so separately and in his own name.

(3) The appeal shall be addressed to the authority competent to hear appeals and shall contain a material statements and arguments on which the appellant relies and shall not contain any disrespectful or improper language. A copy of the order appealed against shall invariably be enclosed with the Appeal.

(4) A copy of appeal shall also be sent to the disciplinary authority, against whose order appeal is preferred.”

3. By virtue of sub-rule (1) of the aforesaid Rule, it is evident that the order impugned is appealable before the Appellate Authority. Shri Sharma, learned counsel appearing for the Petitioner, however, while placing his reliance upon the decisions rendered in the matters of ***Union of India and another vs. Ashok Kumar Aggarwal, Committee of Management and another vs. Vice-Chancellor and others, M.P.State Agro Industries Development Corporation and Anr. vs. Jahan Khan and Ram And Shyam Company vs. State of Haryana and others*** reported respectively in (2013) 16 SCC 147, (2009) 2 SCC 630, AIR 2007 SC 3153 and AIR 1985 SC 1147, submits that the alternative remedy is not a bar to entertain this petition. It is

true that alternative remedy is not a bar for entertaining the petition, but the principles laid down in those decisions are under peculiar circumstances and are entirely on different footing and would, therefore, be distinguishable from the facts involved herein, particularly, when the aforesaid statutory remedy is available to the petitioner.

4. In view of above, I am not inclined to entertain this petition at such a pre-matured stage. The petition is accordingly dismissed. No order as to costs.

Sd/-

(Sanjay S. Agrawal)
Judge