

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No.6912 of 2021**

Dharmendra Kumar Paswan, S/o Shri Sitaram Paswan, aged about 32 years, posted as Constable at 16<sup>th</sup> BN (IR) CAF, Narayanpur (CG)

**----- Petitioner****Versus**

1. State of Chhattisgarh Through the Secretary, Department of Home, Mantralaya, Mahanadi Bhawan, Nava Raipur, Atal Nagar, District Raipur (CG)
2. Commandant, 16<sup>th</sup> BN (IR) CAF, Narayanpur (CG)
3. Assistant Commandant, 16<sup>th</sup> BN (IR) CAF, Narayanpur (CG)

**----- Respondent**


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| For Petitioner  | : Mr.Shikhar Sharma, Advocate   |
| For Respondents | : Mr.Anshuman Shrivastava, P.L. |

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

**15/12/2021**

1. The petitioner herein has called in question the initiation of departmental proceedings against him by order dated 23.11.2021 (Annexure P-1) and charge-sheet (Annexure P-2) served along with the said order on the ground that it is in breach of the provisions contained in Section 198 of the CrPC.
2. Mr.Shikhar Sharma, learned counsel for the petitioner, would submit that initiation of departmental proceedings against the petitioner by order dated 23.11.2021 (Annexure P-1) and charge-sheet (Annexure P-2) is in violation of the provisions contained in Section 198 of the CrPC as no Court can take cognizance of an offence punishable under Chapter XX of the IPC except upon a

complaint made by some person aggrieved by the offence.

3. On the other hand, Mr. Anshuman Shrivastava, learned Panel Lawyer for the respondents/State, would submit that the competent authority has initiated departmental proceedings against the petitioner and as such, the provisions contained in Section 198 of the CrPC are not at all attracted. Therefore, the writ petition deserves to be dismissed.
4. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
5. By Annexure P-1 and P-2, the petitioner has been subjected to departmental proceedings on the ground that during lifetime of his legally wedded wife Smt. Nirmala Devi, without giving divorce to her he has entered into second marriage with Smt. Gitanjali, which is in violation of the Chhattisgarh Civil Services (Conduct) Rules, 1965 and further allegation is that the petitioner has recorded the name of Gitanjali's younger son in service records by misrepresenting, which is violation of Regulation 64(2) of the Chhattisgarh Police Regulations and for other allegations, charge-sheet has been issued against him.
6. The petitioner has not alleged that initiation of departmental proceedings for his second marriage is without jurisdiction and without authority of law or even the charges levelled against him are not at all made out against him and he has not entered into second marriage

with Smt.Gitanjali. The competent authority has initiated departmental proceedings against the petitioner, in which the petitioner is at liberty to participate and submit reply and contest departmental proceedings.

7. As such, the writ petition is dismissed having no merits. However, the petitioner is at liberty to file reply to the charge-sheet and join departmental proceedings. No order as to cost(s).

Sd/-

(Sanjay K.Agrawal)  
Judge

B/-