CGHC010222242026 2026:CGHC:45597

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4562 of 2026

1 - Kishore Kumar Sahu, S/o- Shri Yogeshwar Kumar Sahu, Aged About 42 Years R/o- Village Kuruskera, Post - Sursabandha, Police Station Rajim, District- Gariyaband (C.G.)

... Petitioner

versus

1 - State Of Chhattisgarh Through The Secretary, School Education Department, Mantralaya, Mahanadi Bhawan Naya Raipur Atal Nagar, Raipur, District- Raipur Chhattisgarh.

2 - Director, Public Instruction, Indrawati Bhawan Naya Raipur Atal Nagar, Raipur, District- Raipur Chhattisgarh.

3 - Divisional Joint Director (Education), Division Raipur, District- Raipur (C.G.)

4 - District Education Officer, Dhamtari, District- Dhamtari (C.G.)

5 - Chief Executive Officer, Janpad Panchayat, Magarlod, District- Dhamtari (C.G.)

... Respondents

For Petitioner	:	Mr. Anshit Singh Hora, Advocate
For State/Respondent	:	Ms. Ghanshyam Kashyap, Dy.G.A.

(Hon’ble Shri Justice Bibhu Datta Guru)

Order on Board

28/10/2026

1. By the present petition, the petitioner has prayed for following

reliefs:-

> “(i) To kindly issue an appropriate writ, order or direction thereby directing the respondent authorities to keep the departmental enquiry initiated against the petitioner pursuant to the departmental charge-sheet dated 29.01.2026 in abeyance till final conclusion of the pending criminal proceedings arising out of Crime No. 124/2011;
>
> (ii) To kindly issue an appropriate writ, order or direction thereby quashing the order dated 16.03.2026 whereby the District Education Officer, Dhamtari has been appointed as the Enquiry Officer despite being cited as a witness in the departmental proceedings.
>
> iii. To kindly issue an appropriate writ, order or direction thereby restraining the respondent authorities from proceeding further with the departmental enquiry against the petitioner during pendency of the criminal trial;
>
> (iv) To kindly pass any other or further orders as this Hon'ble Court may deem just, equitable, and proper in the facts and circumstances of the case to secure the ends of justice.”

2. Learned counsel for the petitioner though submits that the issue involved in the present petition regarding continuation of departmental enquiry on same set of charges & evidence in case of pendency of criminal trial on the same set of evidence is squarely covered by the judgment of this Court in WPS No.7565/2026 but, another ground has also been raised that the Enquiry Officer has been appointed vide Annexure P-1 by appointing the District Education Officer, Dhamtari as Enquiry

Officer to enquire into the alleged charge sheet, whereas the District Education Officer is also stated to be one of the witnesses in the said charge sheet / disciplinary action. Learned counsel submits that a witness cannot be an Enquiry Officer and the procedure adopted by the respondents is bad in law.

3. Learned counsel appearing for the parties would jointly and fairly submit that the issue involved in this writ petition has already been considered and decided by this Court vide order dated 15.10.2026 passed in WPS No.7565 of 2026, wherein this Court held as under:-

> “7. The question for consideration is whether, in the facts and circumstances of the present case, the departmental proceedings ought to be deferred until the common witnesses have been examined before the criminal Court.
>
> 8. The law on the subject is well settled. There is no absolute or inflexible rule that departmental proceedings must invariably remain stayed during the pendency of a criminal trial. Both proceedings may ordinarily continue simultaneously, as they are distinct in nature and the standard of proof applicable to them is different. However, where the criminal charge is grave, the factual foundation of both proceedings is substantially the same, the witnesses and evidence

are common, and continuation of the departmental inquiry is likely to prejudice the defence of the delinquent employee in the criminal trial, deferment of the departmental proceedings may be warranted in the interests of justice.

9. In ***Capt. M. Paul Anthony v. Bharat Gold Mines Ltd. and Another, reported in (1999) 3 SCC 679***, the Hon'ble Supreme Court explained the circumstances in which it may be desirable to stay departmental proceedings pending a criminal trial, particularly where the charges are grave and involve complicated questions of fact and law and the evidence in the two proceedings is substantially similar. The principles governing the issue have also been considered in ***Divisional Controller, Karnataka State Road Transport Corporation v. M.G. Vittal Rao, reported in (2012) 1 SCC 442; Stanzen Toyotetsu India Private Limited v. Girish V. and Others, reported in (2014) 3 SCC 636;*** and ***State Bank of India and Others v. Neelam Nag and Others, reported in (2016) 9 SCC 491***. The consistent view is that the question of deferment must be determined on the facts of each case, keeping in view the nature of the allegations, the identity of the evidence and the likelihood of prejudice, while also

ensuring that departmental proceedings are not unnecessarily delayed.

10. XXX XXX XXX

11. A comparison of the material supplied indicates substantial overlap in the subject matter of the two proceedings. The concern raised by the petitioner is not merely that two proceedings are pending simultaneously, but that the examination of common witnesses in the departmental inquiry before their examination in the criminal trial may disclose the defence of the petitioner and adversely affect her position before the criminal Court. It is, however, necessary to clarify that the mere existence of common witnesses would not, in every case, justify staying the entire departmental inquiry. The relief must be confined to what is necessary to protect the fairness of the criminal trial, without unduly impeding the disciplinary authority in the discharge of its duties. In this regard, the observations of the Hon'ble Supreme Court in ***Avinash Sadashiv Bhosale (Dead) through LRs. v. Union of India, reported in (2012) 13 SCC 142,*** and ***Shashi Bhushan Prasad v. Inspector General, C.I.S.F., Civil Appeal No. 7130 of 2009, decided on 01.08.2019***, may also be kept in view while applying the settled principles to the facts

of the present case.

12. Having regard to the nature of the allegations, the substantial overlap between the factual issues involved in the criminal case and the departmental charge, and the material indicating that witnesses to the incident are common to both proceedings, this Court is of the considered view that the interests of justice would be served by deferring the examination of common witnesses in the departmental inquiry until they have been examined before the Trial Court in the pending criminal case. Such a course would safeguard the petitioner against the possibility of premature disclosure of her defence, while at the same time preserving the authority of the departmental authorities to proceed with the inquiry in accordance with law. The direction is not intended to suspend disciplinary action indefinitely or to prevent the authorities from taking steps which do not cause prejudice to the petitioner's defence in the criminal trial.

4. Having considered the entire facts situation of the case, also considering the joint submissions made by the parties and further considering the fact that the identical issue has already been considered and decided by this Court in WPS No.7565/2026, this writ petition is also allowed and disposed of in terms of the order

passed in the aforesaid writ petition.

5. Accordingly, it is directed that the respondents shall defer the examination of those witnesses in the departmental inquiry against the petitioner who are also cited as witnesses in the pending criminal case, until such common witnesses have been examined before the competent Trial Court. The departmental proceedings shall thereafter continue in accordance with law, subject to the applicable service rules and the observations made hereinabove.

6. At this juncture, it is noteworthy to mention here that from the material availabe on record, it is manifest that the record that the District Education Officer is one of the witnesses to the charge alleged against the petitioner and he himself has been appointed as the Enquiry Officer. Hence, the appointment of the District Education Officer as Enquiry Officer is liable to be and is hereby quashed. However, liberty is reserved to the respondents to appoint a fresh Enquiry Officer for initiation of departmental enquiry.

7. In the result, the writ petition is allowed and disposed of.

SD/-

(**Bibhu Datta Guru**)
JUDGE

Amardeep