CGHC010229992021 2026:CGHC:44242

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HIGH COURT OF CHHATTISGARH AT BILASPUR

SHYNA AJAY

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WPC No. 3630 of 2021

Saroj Sahu S/o Shri Baijnath Prasad Sahu, Aged About 54 Years R/o Mahamaya Chowk, Sadar Road, Ambikapur, District Sarguja Chhattisgarh

--- **Petitioner(s)**

versus

1 - State Of Chhattisgarh Through The Secretary, General Administration Department, Mantralaya, Atal Nagar, Raipur Chhattisgarh

2 - The Collector Cum District Magistrate, Ambikapur, District Sarguja Chhattisgarh

3 - The Sub Divisional Magistrate Cum Incident Commander, Ambikapur, District Sarguja Chhattisgarh

4 - The Municipal Corporation, Ambikapur, Through The Commissioner, Municipal Corporation, Ambikapur District Sarguja Chhattisgarh

--- **Respondent(s)**

WPC No. 3669 of 2021

Virendra Chourasia S/o Late Shri Nanku Prasad Chourasia, Aged About 55 Years, Proprietor Chourasia Marriage Garden, Ring Road, R/o Mayapur Ambikapur District Sarguja Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through The Secretary, General Administration Department, Mantralaya, Atal Nagar, Raipur Chhattisgarh

2 - The Collector Cum District Magistrate Ambikapur, District Sarguja Chhattisgarh.

3 - The Sub Divisional Magistrate Cum Incident Commander Ambikapur, District Sarguja Chhattisgarh.

4 - The Municipal Corporation Ambikapur, Through The Commissioner, Municipal Corporation Ambikapur, District Surguja Chhattisgarh

--- **Respondent(s)**

WPC No. 3995 of 2021

Prakash Sahu S/o Late Shri Ramnath Sahu, Aged About 48 Years R/o Near Hanuman Mandir, Bilaspur Chowk Ambikapur, District - Sarguja Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through - The Secretary General Administration Department, Mantralaya, Atal Nagar, Raipur Chhattisgarh

2 - The Collector Cum District Magistrate, Ambikapur, District Sarguja Chhattisgarh

3 - The Sub Divisional Magistrate Cum Incident Commander, Ambikapur District Sarguja Chhattisgarh

4 - The Municipal Corporation, Ambikapur, Through - The Commissioner, Municipal Corporation, Ambikapur, District Sarguja Chhattisgarh

--- **Respondent(s)**

(Cause Title downloaded from CIS Periphery)

For Petitioner(s)	:	Mr. Prafull N. Bharat, Senior Advocate with Mr. Vishal Sahu, Advocate
For Respondent/ State	:	Mr. Akhilesh Kumar, Government Advocate
For Respondent/ Municipal Corporation	:	Mr. Anand Pandey, Advocate on behalf of Mr. Bhupendra Singh, Advocate

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SB: Hon'ble Mr. Justice Amitendra Kishore Prasad

Order on Board

13/10/2026

1. Since common questions of fact and grievance arise in this batch of writ petitions, they are heard together and disposed of by this common order, so as to avoid conflicting or anomalous

findings by this Court.

2. In sum and substance, all the writ petitioners have prayed for the same reliefs. For the sake of convenience, the reliefs claims in WPC No.3630/2021 is reproduced below :

> *10.1 To call for the records of the case for the kind perusal of this Hon'ble Court.*
> *10.2 To issue an appropriate writ or order and declare that the order dated 04.07.21 (Annexure P-1) and 12.07.21 (Annexure P-2) are illegal, bad in law and without jurisdiction.*
> *10.3 To issue an appropriate writ or order and quash the order dated 04.07.21 (Annexure P-1) and 12.07.21 (Annexure P-2).*
> *10.4 Any other relief deemed fit in the facts and circumstances of the case may also be granted.*

3. Brief facts of the case, in nutshell, are the marriage between Harsh Sahu (son of petitioner - Saroj Sahu) and the daughter of petitioner - Prakash Sahu, was solemnized on 02.07.2021 at Chourasia Marriage Garden, Ambikapur. Petitioner No. 1- Virendra Chourasia, is the proprietor of the said marriage garden. It was alleged that the marriage ceremony was attended by a gathering exceeding 50 persons, purportedly in violation of the prescribed COVID-19 protocol. During the subsistence of the pandemic, the Ministry of Home Affairs, Government of India, had issued an order dated 29.04.2021 in the exercise of powers under Section 6 (2) (i) and Section 10 (2) (i) of the Disaster Management Act 2005 (in short “the Act of 2005”) . The said order was issued along with an advisory dated 25.04.2021 for immediate implementation across all States and Union

Territories, based on assessment of the prevailing situation, up to 31.05.2021. In the State of Chhattisgarh, all Collectors-cum-District Magistrates were duly authorized under the provisions of the Epidemic Diseases Act, 1897 (in short “the Act of 1897”) and the Act of 2005, to declare containment zones. In pursuance thereof, the Collector-cum-District Magistrate, Surguja (Respondent No. 2), declared District Surguja as a containment zone. Under the said declaration, notifications specifying certain restrictions and relaxations were issued from time to time. In continuation of earlier Notifications, Respondent No. 2 issued a Notification dated 28.05.2021. Among other conditions, the regulations stipulated that marriage functions must strictly adhere to COVID-19 protocols and the directives prescribed by the Government of India, which capped the maximum permissible attendance at 50 persons and mandated that all attendees undergo COVID-19 testing. On the strength of the aforesaid Notifications, the Naib Tehsildar submitted a report to Police Station Ambikapur alleging that a marriage function had taken place on 02.07.2021 at Chourasia Marriage Garden involving a gathering of about 1,000 persons. On the basis of the said report, an First Information Report (FIR) was registered against the petitioners for offenses punishable under Sections 188 and 269 of the Indian Penal Code, 1860 and Section 3 of the Act of 1897. Concurrently, Respondent No. 3 (Sub-Divisional Magistrate-cum-Incident Commander) concluded that the petitioners had committed a breach of the Notification dated

28.05.2021. Consequently, Respondent No. 3 passed an administrative order imposing penalties as under:

- Petitioner (Saroj Sahu): Rs.2,37,500/-
- Petitioner (Prakash Sahu): Rs.2,37,500/-
- Petitioner (Virendra Chourasia, Garden Owner): Rs.4,75,000/-

4. The petitioners were directed to deposit the said penalty amounts with Respondent No. 4 (Municipal Corporation, Ambikapur). Being aggrieved by the impugned orders of penalty, which are illegal, arbitrary and passed without any authority or jurisdiction in law, the petitioners have preferred the instant petitions before this Court challenging the same. An interim stay was also granted on the recovery in favour of petitioners Saroj Sahu and Prakash Sahu, whereas petitioner Virendra Chourasia deposited the fine under protest. Hence, these Petitions.

5. Mr. Prafull N. Bharat, learned Senior Counsel appearing for all the petitioners along with Mr. Vishal Sahu, Advocate, submits that the action taken against the petitioners is directly contrary to the statutory procedure established under the Act of 2005 and the Act of 1897. He submits that under the relevant provisions of the Act of 2005, cognizance of an offence can be taken only upon a complaint made by the designated authority. Therefore, the imposition of penalties by the Sub Divisional Magistrate is wholly devoid of jurisdiction. He further submits that under the

statutory framework, liability can only be fixed through due process of law upon a proper complaint and subsequent judicial adjudication, whereas in the present case, the Sub Divisional Magistrate directly passed the impugned penalty orders without following the procedure established by law or adhering to the principles of natural justice. He also submits that the Division Bench of this Court, vide order dated 21.08.2023 passed in W.P. (Cr.) No. 566/2021 (Virendra Chourasia & others Vs. State of Chhattisgarh & Ors.), has already quashed the foundational FIR No. 587/2021 dated 04.07.2021 registered at Police Station Ambikapur. Hence, the very substratum of the alleged contravention stands erased and the consequential recovery proceedings cannot be sustained. Therefore, while the petitioners in W.P.(C) No. 3630/2021 and W.P.(C) No. 3995/2021 seek the quashing of the penalty orders and all recovery proceedings, the petitioner in W.P.(C) No. 3669/2021, having deposited Rs.4,75,000/- under protest, is entitled to a direction for full refund of the said amount along with appropriate interest.

6. On the other hand, Mr. Akhilesh Kumar, learned counsel appearing for the State submits that the fine was rightly imposed by the concerned authorities and that the impugned orders suffer from no illegality or infirmity. He submits that when the Central Government had restricted attendance at marriage functions to a maximum of 50 persons that too subject to strict compliance with safety guidelines, the petitioners could not have permitted a gathering of about 1000 persons at the venue. In this regard, the

concerned Tehsildar conducted a preliminary enquiry and verified that an assembly of around 1000 persons had indeed gathered on the date of the function, in clear violation of the COVID-19 Notifications and directions issued by the competent authorities. Consequently, the registration of the FIR and the subsequent administrative imposition of penalty were well within the realm of law and warrant no judicial interference by this Court. However, learned State Counsel could not dispute the material fact that the FIR registered against the petitioners on the very same set of factual allegations has already been quashed by a Division Bench of this Court vide order dated 21.08.2023 passed in W.P. (Cr.) No. 566 of 2021 (Virendra Chourasia & Others vs. State of Chhattisgarh & Others).

7. Mr. Anand Pandey, Advocate on behalf of Mr. Bhupendra Singh, learned counsel for the Municipal Corporation submits that the penalty was rightly been imposed and the owner of the garden namely Virendra Chourasia has deposited the amount of fine before the authorities concerned. He further submits that a bare reading of the impugned orders unequivocally demonstrates that the said directions were issued solely by Respondent No. 3 (Sub-Divisional Magistrate-cum-Incident Commander, Ambikapur) in the exercise of powers delegated under the Act of 2005 and the Act of 1897, whereby Respondent No. 4 (Municipal Corporation, Ambikapur) was designated purely as a receiving and treasury node for administrative convenience and accounting purposes. He submits that Respondent No. 4

possesses no independent statutory or executive authority to enforce, alter or discharge the impugned penalty orders nor has it exercised any quasi-judicial discretion in relation thereto, its role being strictly confined to ministerial compliance with the directions of the competent Incident Commander. He lastly submits that no cause of action arises against Respondent No. 4.

8. I have heard learned counsel for the parties and also perused the documents annexed with the petition with utmost circumspection.

9. Evidently, under the Act of 2005, the Sub Divisional Magistrate lacks jurisdiction to unilaterally issue orders for the imposition of pecuniary penalties. Under the scheme of the Act of 2005, a complaint must first be instituted and duly adjudicated before holding a person guilty. In the present case, no such complaint as contemplated under the Act of 2005 was ever lodged or adjudicated upon. The direct imposition of fine, without the filing of a complaint and in the absence of due statutory adjudication, is entirely beyond the jurisdiction and competence of the authority concerned. Furthermore, Section 3 of the Act of 1897 contains no provision empowering executive authorities to directly impose pecuniary penalties. The said section does not lay down any independent penal procedure and it merely stipulates that any person disobeying a regulation or order made under the Act shall be deemed to have committed an offence punishable under Section 188 of the IPC.

10. Under Chapter IV of the Act of 2005, the District Disaster Management Authority is headed by the Collector or District Magistrate as its Chairperson, who alone is vested with executive powers to exercise functions under the Act. In the absence of any statutory delegation or express power conferred upon the concerned Sub Divisional Magistrate to levy fines, the impugned orders imposing penalties is manifestly illegal and without jurisdiction. Consequently, the impugned orders must be regarded as a nullity in the eyes of law. Additionally, where proceedings could not be lawfully conducted and the alleged contraventions were never proved in accordance with law, the imposition of penalty remains wholly unsupportable.

11. Moreover, once the First Information Report lodged against the petitioners on the very same set of factual allegations has already been quashed by the Division Bench of this Court vide order dated 21.08.2023 passed in W.P. (Cr.) No. 566/2021 on the ground that it was unsustainable, the very basis for the imposition of fine stands completely erased. When the commission of any offence or violation could not be established in the primary criminal action, administrative penalties cannot be sustained on identical allegations, more so when no complaint was ever filed or adjudicated by a competent forum.

12. In view of the foregoing discussion, the imposition of penalties upon the respective petitioners is held to be contrary to law and unsustainable. Accordingly, the impugned orders imposing penalties passed by the concerned Sub Divisional Magistrate in

each of the Writ Petitions are hereby quashed.

13. Since petitioner - Virendra Chourasia has already deposited the penalty amount with the concerned authority, the concerned authority i.e. Respondent No. 4 is directed to refund the said amount to the petitioner within a period of three months from the date of receipt of a certified copy of this order.

14. With the aforesaid observations/directions, all the Writ Petitions stand disposed of. No order as to costs.

Sd/-

(Amitendra Kishore Prasad)
Judge

Shyna Ajay