



2025:CGHC:36393-DB

AFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WA No. 531 of 2025**

Mansingh Bhardwaj S/o Shri Nandlal Bhardwaj Aged About 54 Years
Substantive Post Principal at Present Working on the post of Block
Education Officer, Jagdalpur District - Bastar(C.G.)

... Appellant(s)**versus**

1. State of Chhattisgarh Through- Avar Secretary School Education Department Mantralaya Mahanadi Bhawan Naya Raipur Atal Nagar Raipur District - Raipur (C.G.)
2. The Director Directorate Public Instruction Department Directorate Indrawati Bhawan Naya Raipur Atal Nagar Raipur District - Raipur (C.G.)
3. The Commissioner Bastar Division Jagdalpur (C.G.)
4. The Collector And President District Level Yuktiyuktaran Samiti , District - Bastar Jagdalpur (C.G.)
5. The District Education Officer District Bastar Jagdalpur (C.G.)

...Respondent(s)

For Appellant	:	Mr. Rajeev Shrivastava, Senior Advocates, assisted by Mr. A.S. Rajput, Advocate.
For Respondents/State	:	Mr. Yashwant Singh Thakur, Additional Advocate General.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Bibhu Datta Guru, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

28.07.2025

1. Heard Mr. Rajeev Shrivastava, learned Senior Advocate, assisted by Mr. A.S. Rajput, learned counsel for the appellant. Also heard Mr. Yashwant Singh Thakur, learned Additional Advocate General, appearing for the State.
2. The present intra Court appeal has been filed by the appellant against the order dated **04.07.2025** passed by the learned Single Judge in **WPS No. 5711 of 2025** (***Mansingh Bharadwaj vs. State of Chhattisgarh & Others***), whereby the learned Single Judge has dismissed the writ petition filed by the appellant/writ petitioner herein.
3. Brief facts of the case are that the appellant is serving as a Principal and is also discharging the duties of Block Education Officer, presently posted at Jagdalpur, District Bastar. It is alleged that the appellant submitted manipulated and incorrect information to the competent authorities in relation to the rationalization of teachers, in contravention of the instructions issued on 02.08.2024 concerning the said process. In view of the alleged misconduct and violation of Rule (i), (ii), and (iii) of the Chhattisgarh Civil Services (Conduct) Rules, 1965 (for short, 'Rules of 1965'), the appellant was placed under suspension by order dated 06.06.2025, issued by respondent No. 4.

4. Learned Senior Advocate for the appellant submits that the appellant was initially appointed to the post of Lecturer in English in the year 1995. Subsequently, he was promoted to the post of Principal by order dated 04.10.2018. Thereafter, he was posted as the Block Education Officer, Jagdalpur, District Bastar (C.G.), through an administrative transfer. It is further submitted that, by order dated 05.05.2025, and in compliance with the directions issued under the rationalization scheme, the appellant constituted a Block Level Rationalization Internal Committee under the chairmanship of the Assistant Block Education Officer, Jagdalpur.

5. It is further contended by the learned Senior Advocate for the appellant that the appellant proceeded on sanctioned leave from 02.06.2025 to 06.06.2025 to attend his nephew's marriage at Seoni (M.P.). During this period, on 04.06.2025, counselling under the rationalization scheme was conducted in District Bastar in the appellant's absence. On the same day, *i.e.*, 04.06.2025, respondent No. 5 cancelled the appellant's leave and directed him to appear before him on 05.06.2025. It is submitted that upon receiving information regarding the cancellation of his leave, the appellant immediately commenced his return journey. However, during the course of his return, he came to know that on 06.06.2025, respondent No. 4-the Collector and President of the District Level Rationalization Committee, District Bastar had passed a suspension order against him without issuing any show-cause notice or affording him an opportunity of hearing. Thereafter, on 09.06.2025, the appellant reported for duty before respondent No. 5 and submitted a representation on the same day to respondent No. 3 against the

suspension order. However, no response has been received from respondent No. 3 till date. Subsequently, the appellant preferred writ petition bearing WPS No. 5711 of 2025 before this Hon'ble Court, challenging the suspension order dated 06.06.2025, which came to be dismissed on 04.07.2025.

6. It is further submitted by the learned Senior Advocate for the appellant that the learned Single Judge failed to appreciate that, in WPS No. 3160 of 2006, this Court, vide order dated 09.10.2014, held that the Collector of a District is not empowered under the Chhattisgarh Civil Services (Classification, Control and Conduct) Rules, 1966 (for short, 'Rules of 1966') to place a Class II Gazetted Officer under suspension or to institute a departmental enquiry against him. The said judgment was brought to the notice of the learned Single Judge by the appellant under a covering memo dated 25.06.2025. He also submitted that the learned Single Judge failed to consider that an identical writ petition, *i.e.*, WPS No. 2804 of 2015, had been allowed by this Court vide order dated 10.08.2015, wherein the suspension order issued by an incompetent authority was quashed. The appellant's case is similar in nature, and a copy of the said order was already placed on record as 'Annexure P/10' in the writ petition. However, the learned Single Judge held that the decision in WPS No. 2804 of 2015 was distinguishable on the ground that the notification dated 04.08.2008 had not been produced for consideration before the Coordinate Bench, and therefore, no benefit from that judgment could be extended to the appellant. In this regard, it is submitted that the notification dated 04.08.2008 merely empowers all Divisional Commissioners of the State to impose penalties specified under Clauses

(i) to (iv) of Rule 10 of the Rules of 1966 on Class II Officers of the State Government. A copy of the said notification was already filed by the appellant in the writ petition under a covering memo dated 23.06.2025.

7. Learned Senior Advocate for the appellant would submit that the learned Single Judge has erred in passing the impugned order dated 04.07.2025, whereby the writ petition filed by the appellant was dismissed relying upon the judgment dated 21.06.2021 passed in **WPS No. 2062 of 2016 (Panchu Ram Thakur v. State of Chhattisgarh & Another)**. It is submitted that the said judgment is not applicable to the present case, as in **Panchu Ram Thakur** (supra), the suspension order was passed by the Divisional Commissioner against a Class II (Gazetted) Officer, whereas in the present case, the suspension order was passed by the Collector-cum-District Level Rationalization Committee, District Bastar, against the appellant. In **Panchu Ram Thakur** (supra), the Coordinate Bench of this Court held that the Divisional Commissioner, having been delegated the powers of the disciplinary authority under Rule 12(2) of the Rules of 1966, is competent to place a Class II (Gazetted) Officer under suspension; however, he does not have the authority to change the officer's headquarters. Hence, the impugned order dated 04.07.2025 passed by the learned Single Judge is perverse and contrary to the facts of the case and liable to be set aside.

8. On the other hand, learned State counsel submits that the learned Single Judge, after duly considering all relevant aspects of the matter, has rightly dismissed the writ petition filed by the appellant/writ petitioner, and as such, the impugned order warrants no interference.

9. We have heard learned counsel for the parties and perused the impugned judgment and materials available on record.

10. The principal grievance raised by the appellant in the writ petition before the learned Single Judge is that the Collector, Bastar (Jagdalpur), not being the appointing authority of the appellant, lacked the competence to pass the impugned order of suspension. It is submitted that such an action could only have been taken by the competent authority, strictly in accordance with law. In this regard, reliance is placed on Rule 9(1) of the Rules of 1966, which stipulates that a Government servant may be placed under suspension by the appointing authority, or by any authority to which it is subordinate, or by the disciplinary authority, or by any other authority empowered in that behalf by the Governor, either by a general or special order. For ready reference, Rule 9(1) of the Rules of 1966 is reproduced below:

“9 (1). The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the Governor by general or special order, may place a Government servant under suspension-

(a) where a disciplinary proceeding against him is contemplated or is pending, or

(b) where a case against him in respect of any criminal offence is under investigation, inquiry of trial :

[Provided that a Government servant shall invariably be placed under suspension when a challan for criminal offence involving corruption or other moral turpitude is filed against him:] [Inserted by Notification No. C-6-2-

96-3-(I), dated 3rd August. 1996.]

Provided further that where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.”

11. It is evident that the substantive post of the appellant is that of Principal, and since 2018, he has been discharging duties as Block Education Officer, Jagdalpur, District Bastar (C.G.), in compliance with the order passed by respondent No. 1. As per the applicable rules, the appointing authority of the appellant is the Secretary, School Education Department. By notification dated 04.08.2008, the powers of the appointing authority were delegated to the Divisional Commissioner. However, the impugned suspension order dated 06.06.2025 was passed by respondent No. 4, who is not the competent authority. The said suspension order, therefore, is without jurisdiction and has been passed without lawful authority. Moreover, the order has not been signed by the Collector himself, but by some other officer on his behalf.

12. Additionally, the impugned suspension order does not specify that it was issued in contemplation of any departmental proceedings, which amounts to a violation of Rule 9(1)(a) of the Rules of 1966. The order was passed without affording the appellant any opportunity of hearing or issuance of a show-cause notice, thereby violating the principles of natural justice. Furthermore, the appellant belongs to the Scheduled Caste category, and in view of the circular dated 27.11.2012 issued by the General Administration Department, respondent No. 4 was not competent to directly issue a suspension order against the appellant.

13. It is a settled legal proposition that the authority which has been conferred with the competence alone can pass the order. The Hon'ble Supreme in ***Joint Action Committee of Air Line Pilots Association of India (ALPAI) & Others vs. Director General of Civil Aviation & Others***, reported in **(2011) 5 SCC 435** held as under:

*“26. The contention was raised before the High Court that the Circular dated 29-5-2008 has been issued by the authority having no competence, thus cannot be enforced. It is a settled legal proposition that the authority which has been conferred with the competence under the statute alone can pass the order. No other person, even a superior authority, can interfere with the functioning of the statutory authority. In a democratic set-up like ours, persons occupying key positions are not supposed to mortgage their discretion, volition and decision-making authority and be prepared to give way to carry out commands having no sanctity in law. Thus, if any decision is taken by a statutory authority at the behest or on suggestion of a person who has no statutory role to play, the same would be patently illegal. (Vide *Purtabpore Co. Ltd. v. Cane Commr. of Bihar*, *Chandrika Jha v. State of Bihar*, *Tarlochan Dev Sharma v. State of Punjab* and *Manohar Lal v. Ugrasen.*)*

*27. Similar view has been reiterated by this Court in *Commr. of Police v. Gordhandas Bhanji*, *Bahadursinh Lakhubhai Gohil v. Jagdishbhai M. Kamalia* and *Pancham Chand v. State of H.P.* observing that an authority vested with the power to act under the statute alone should exercise its discretion following the procedure prescribed therein and interference on the part of any authority upon whom the statute does not*

confer any jurisdiction, is wholly unwarranted in law. It violates the constitutional scheme.

28. In view of the above, the legal position emerges that the authority who has been vested with the power to exercise its discretion alone can pass the order. Even a senior official cannot provide for any guideline or direction to the authority under the statute to act in a particular manner.”

14. However, the learned Single Judge, without considering the aforesaid contentions, passed the impugned order dated 04.07.2025, granting liberty to the appellant to challenge the suspension order before the State Government in accordance with Rule 23 of the Rules of 1966.

15. In this regard, the Hon'ble Supreme Court in the matter of ***Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai & Others***, reported in ***(1998) 8 SCC 1*** held in paragraph 15 as under:

“15..... that the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point, but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.”

16. Applying the well-settled principles of law to the facts of the present case, and for the reasons stated hereinabove, the impugned suspension

order dated 06.06.2025 passed by respondent No. 4, having been issued by an incompetent authority, is hereby set aside. However, the respondent No. 3 shall be at liberty to pass a fresh order on the issue, in accordance with law, within a period of two weeks from the date of receipt of a certified copy of this order.

17. Accordingly, the present writ appeal is **allowed** and the impugned order dated 04.07.2025 passed by the learned Single Judge in WPS No.5711 of 2025 is hereby set aside. Consequent thereto, the writ petition filed by the appellant/writ petitioner stands **allowed**.

**Sd/-
(Bibhu Datta Guru)
Judge**

**Sd/-
(Ramesh Sinha)
Chief Justice**

Head Note

Only the authority expressly empowered under the statute is competent to exercise disciplinary powers. Any order passed by an unauthorized authority is without jurisdiction and liable to be set aside. Further, where there is a violation of the principles of natural justice or the impugned action is without jurisdiction, the existence of an alternative remedy does not bar the exercise of writ jurisdiction under Article 226 of the Constitution.