

**(2011) 12 JH CK 0020**

**In the Jharkhand High Court**

**Case No : Writ Petition (S) No. 3893 of 2011**

Binoda Nand Choudhary

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

---

**Date of Decision : 13-12-2011**

**Acts Referred:**

**Citation : (2012) 1 JCR 339**

**Hon'ble Judges : Prashant Kumar, J**

**Bench : Single Bench**

**Final Decision : Allowed**

---

## **Judgement**

Prashant Kumar, J.—Initially this writ application filed for quashing Annexure 5. However, Annexures-7 and 8 was also impugned by filing amendment application, which was allowed vide order dated 11.11.2011.

2. From perusal of Annexure-5, I find that the petitioner suspended in contemplation of departmental proceeding by the District Superintendent of Education, Dumka. It is not in dispute that the District Superintendent of Education, Dumka has power to suspend the petitioner in contemplation of departmental proceeding. Under the said circumstance, I am not inclined to interfere with the aforesaid order as contained in Annexure-5.

3. However, from perusal of Annexures-7 and 8, I find that the respondent (District Superintendent of Education) directed the petitioner to deposit Rs. 1,86,367/- as according to him petitioner has not utilized that money for construction of building. It is worth mentioning that in-charge No. 2, it was mentioned that the petitioner gave explanation that he completed the work of Rs. 4,13,350/- and had given a utilization certificate in the district office.

4. Since the petitioner took aforesaid plea that he has completed the work of Rs. 4,13,350, thus, in my view, till completion of departmental proceeding, it is not open for the respondent No. 2 (District Superintendent of Education, Dumka) to conclude that the petitioner has not completed the work of Rs. 1,86,367/-.

5. It is not in dispute that the departmental proceeding is still pending. Thus the aforesaid conclusion of respondent District Superintendent of Education, Dumka, appears to be pre-judging the matter which is not permissible under the law.

6. Accordingly, I partially allow this application and quash Annexures-7 and 8 and restrain the respondents from making recovery of Rs. 1,86,367/- from the petitioner, till the conclusion of departmental proceeding.