

**(2007) 05 CHH CK 0021**  
**In the Chhattisgarh High Court**  
**Case No : Writ Petition (S) No. 3081 of 2007**

B.R. Mandavi

APPELLANT

Vs

State of C.G. and Others

RESPONDENT

**Date of Decision :** 11-05-2007

**Acts Referred:**

**Citation :** (2007) 2 CGLJ 473

**Hon'ble Judges :** Satish K. Agnihotri, J

**Bench :** Division Bench

**Advocate :** Jitendra Gupta, for the Appellant;

**Final Decision :** Dismissed

## Judgement

Satish K. Agnihotri, J.—The Petitioner was working as Project Officer, Integrated Child Development Project, Dhamdha, District Durg. During his posting at Dhamdha, some complaints with regard to delay payment to the staff and embezzlement of government money were made. The Respondent No. 3 i.e. Collector, Durg in contemplation of the departmental enquiry, placed the Petitioner under suspension vide order dated 18th October, 2006 (Annexure P/2).

2. It appears that the departmental enquiry as contemplated under the provisions of Section 9(1)(a) of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (hereinafter referred to as "the Rules, 1966") could not be initiated within 45 days. The said suspension order was revoked vide order dated 15.12.2006 (Annexure P/3). The Petitioner was again placed under suspension vide order dated 17th April, 2007 (Annexure P/1) on the same allegations as well as other additional allegations.

3. The Petitioner challenges the legality and validity of the suspension order dated 17th April, 2007 (Annexure P/1) on the ground that the Petitioner could not have been suspended for the same grounds, as earlier the suspension order was revoked. Secondly, the Petitioner has been transferred to other place. Thus, the Petitioner would not cause any hindrance or influence in the departmental

proceedings.

4. There is no grievance of the Petitioner that the officer, passing the impugned suspension order, is not a competent authority. Admittedly, the departmental proceedings against the Petitioner is contemplated, as required u/s 9(1)(a) of the Rules, 1966.

5. It is well settled principle of law that the suspension is temporary and it does not involve punishment with civil consequences. Suspension means a temporary deprivation of the functions, not amounting to any reduction of his rank or his status. The employee under suspension continues to be a Government Servant, but he is not permitted to work keeping in view pendency of departmental enquiry to avoid undue influence in the proceedings of the departmental enquiry and likely tampering with on records. At this stage is it not necessary to go into the charges leveled against the Petitioner because it may prejudice the case of the parties in the pending departmental enquiry (See. Smt. Philomina Ekka v. State of C.G. and Ors. 2006 (2) CGU 64).

6. Be that as it may, since the suspension does not tantamount to punishment, the Petitioner is entitled to subsistence allowance. According to learned Counsel appearing for the Petitioner, the Petitioner has not been paid any amount from 15.12.2006 to 1.5.2007. The Respondents-authorities cannot deprive the Petitioner from payment of his salary from 15.12.2006 till the day the suspension order of the Petitioner was passed on 17.4.2007. The Petitioner was placed again under suspension and thereafter, he is entitled to subsistence allowance. The Respondents-authorities are accordingly directed to ensure that legally permissible salary for the above stated period and subsistence allowance be granted to the Petitioner, expeditiously.

7. I do not propose to examine the allegations made in the suspension order as the enquiry is already pending consideration. This order will not come in the way of enquiry, pending against the Petitioner on merit. The enquiry authority may proceed with the enquiry uninfluenced by this order.

8. For the reasons stated hereinabove, the writ petition to the extent of quashing of the suspension order dated 17th April, 2007 (Annexure P/1) is dismissed summarily.