

(2023) 06 CHH CK 0011
In the Chhattisgarh High Court
Case No : Writ Petition (CR) No. 260 Of 2023

Rajendrapuri

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 14-06-2023

Acts Referred:

Constitution Of India, 1950 — Article 226, 227
Chhattisgarh Rajya Suraksha Adhiniyam, 1990 — Section 9

Citation : (2023) 06 CHH CK 0011

Hon'ble Judges : Ramesh Sinha, CJ; Rakesh Mohan Pandey, J

Bench : Division Bench

Advocate : Anshul Tiwari, Madhunisha Singh

Final Decision : Disposed Of

Judgement

1. Heard Mr. Anshul Tiwari, learned counsel for the petitioner as well as Ms. Madhunisha Singh, learned Deputy Advocate General, appearing for the State/ respondents.

2. This writ petition has been filed by the petitioner with the following reliefs :

"10.1 That, this Hon'ble Court may kindly be pleased to issue writ / writs, order / orders, direction / directions to respondent no.02 to decide the appeal within a period of 14 days in order to prevent the miscarriage of justice.

10.2 That, this Hon'ble Court may kindly be pleased to issue writ / writs, order / orders, direction / directions and may kindly be please to issue a writ of mandamus directing the respondent authorities to act fairly and follow the relevant provisions of Adhiniyam, 1990 and not to further harass the petitioner by passing such order of externment without following the due procedure of law.

10.3 That, this Hon'ble Court may kindly be pleased to stay the effect and operation of the order dated 16.02.2023 till the time the appeal pending before respondent no.02 is decided.

10.4 That, this Hon'ble Court may kindly be pleased to grant any other relief(s), which is deemed fit and proper in the aforesaid facts and circumstances of the case."

3. Learned counsel for the petitioner states that he had filed a writ petition earlier before this Court, which was dismissed on the ground of alternative remedy lies under Section 9 of the Chhattisgarh Rajya Suraksha Adhiniyam, 1990 (for short 'Adhiniyam, 1990'). Thereafter, he has preferred an appeal before the respondent No. 2 on 16.03.2023, which is pending consideration. Hence, he prayed for a direction to respondent No. 2 to decide the appeal as early as possible.

4. It transpires from the writ petition that the petitioner had earlier approached this Court for quashment of externment order dated 16.02.2023 by filing WPCR No. 126 of 2023 and Co-ordinate Bench of this Court on 28.02.2023 had passed the following order :

"1. The petitioner has filed this writ petition against order dated 16.02.2023 by which order of externment has been passed.

2. Learned counsel for the petitioner submits that the alternative remedy is not a bar to entertain the instant writ petition under Article 226/227 of the Constitution of India.

3. Learned State counsel submits that petitioner has alternative remedy to prefer appeal before the State Government under Section 9 of the Chhattisgarh Rajya Suraksha Adhiniyam, 1990.

4. We have heard learned counsel for the parties, considered their submissions made herein-above and perused the records with utmost circumspection.

5. Since petitioner has alternative remedy to prefer appeal before the State Government under Section 9 of the Chhattisgarh Rajya Suraksha Adhiniyam, 1990, we hereby decline to entertain the instant writ petition and accordingly, it is dismissed. However, petitioner is at liberty to prefer the appeal in accordance with Section 9 of the Chhattisgarh Rajya Suraksha Adhiniyam, 1990, if so advised."

5. Considering the matter in its entirety as also considering the submission of learned counsel for the petitioner, we direct the respondent No. 2 to consider and decide the appeal filed by the petitioner within a period of eight weeks from the date of receipt of certified copy of this order in accordance with law, if already not decided.

6. With the aforesaid observations / directions, the writ petition stands disposed off.