



2026:CGHC:10638



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1643 of 2026

1. Aditya Singh S/o Suryadev Singh Aged About 32 Years R/o House No. I 156, Kashiram Nagar, Gurughasidas Ward No. 49, Telibandha, Po Ravigram, District Raipur Chhattisgarh Presently Posted As Constable 316, F Cadre, Camp - Akash Nagar Bacheli, Dantewada, 15th Battalion Dhanora, District Bijapur Chhattisgarh

... Petitioner

versus

1. State of Chhattisgarh Through The Secretary, Department Of Home Affairs, Mahanadi Bhawan, Mantralaya, Atal Nagar, Raipur Chhattisgarh
2. Commandant 15th Battalion (India Reserve), Chhattisgarh, Chhattisgarh Armed Forces, Bijapur District Bijapur (CG)
3. Inquiry Officer 15th Battalion (India Reserve), Chhattisgarh Armed Forces, Dhanora, District Bijapur Chhattisgarh

... Respondents

For Petitioner : Ms. Nupur Trivedi, Advocate
For Respondents : Mr. Khulesh Sahu, Panel Lawyer

SB: Hon'ble Shri Parth Prateem Sahu, Judge

ORDER ON BOARD

28/02/2026

1. Petitioner has filed this writ petition seeking following reliefs:-



“10.1 That, the Hon'ble Court may kindly be pleased to call for the entire records of the case from the respondent authorities.

10.2. That, this Hon'ble Court may kindly be pleased to set aside quash the impugned memorandum of charges dated 04.09.2025 in D.E. No.11-A2025 (Annexure P/1) issued against the petitioner and any further proceedings of departmental enquiry D.E. No.,11-A/2025 may kindly be stayed till the final disposal of Special Case (Atrocity) No.10/2024 pending before the Special Judge (SC/ST (Prevention of Atrocities) Act, 1989) Mungeli (CG) in the interest of justice.

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

2. Learned counsel for the petitioner submits that the petitioner is an employee of the Police Department and is posted as Constable in 15th Battalion (India Reserve) of Chhattisgarh, Armed Forces, Bijapur. Charge memo was issued to petitioner leveling two charges against him stating that he was involved in criminal activity and thereby violated Rule 3 (1) (iii) of the Civil Services (Conduct) Rules, 1965 and the second charge is that he has violated Regulation No. 64 (4) of the Police Regulations. Charge-sheet is issued pursuant to registration of FIR against the petitioner under Crime No.301/2024 for alleged commission of offence under Sections 376 (2) (n) and 506 of Indian Penal Code. She contended that most of the witnesses in charge-memo issued by the respondent department and the charge-sheet submitted by the police after investigation before the Court of competent jurisdiction in a criminal case are one and same. If petitioner has to cross-examine the witnesses in the



departmental enquiry, who are also the witnesses in criminal case, then the defence which is to be raised by petitioner in criminal case would be open, which will adversely affect his right to defend in criminal case and therefore, the witnesses namely Hemin Bharadwaj (complainant), Parmeshwar Bhardwaj, Urmila Bai Bhardwaj, Ajay Ogre, Vijay Ogre, Bharatlal Ogre, Jaleshwar Prasad Bharadwaj and Salik Ram Dhritlahare (SDOP), who are also the witness in criminal case may not be permitted to examine in the departmental enquiry proceedings till those witnesses are examined before the Trial Court in the criminal case.

In support of his contention, learned counsel for the petitioner places reliance upon the decisions of Hon'ble Supreme Court in the case of ***Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. & Anr.*** reported in ***(1999) 3 SCC 679***, ***Stanzen Toyotetsu India Private Limited Vs. Girish V. & Ors.*** reported in ***(2014) 3 SCC 636***, ***State Bank of India & Ors. Vs. Neelam Nag & Ors.*** reported in ***(2016) 9 SCC 491*** and also in the case of ***Sobant Singh Vs. State of Chhattisgarh & Ors.*** in ***WP(S) No. 6706/2025*** decided on 18.07.2025.

3. On the other hand, learned counsel for the Respondents/State vehemently opposes submission of counsel for the petitioner and would submit that there is no bar for continuing both the proceedings i.e. the departmental enquiry and the criminal case parallelly. It is for the petitioner to demonstrate that the nature of



allegations and the witnesses are one and same. The petitioner in this writ petition has not specifically pleaded the aforementioned fact and therefore, no relief as prayed for can be granted. In support of her contention, she places reliance upon the decision of this Court in the case of **Lekhchand Sahu Vs. State of Chhattisgarh & Ors.** reported in **(2025) SCC OnLine CHH 459**.

4. I have heard learned counsel for the parties and also perused the documents placed on record.
5. It is not in dispute that the petitioner is a suspended employee of the police department holding the post of Constable. Departmental enquiry is initiated against him, charge-memo was issued to him on 4.9.2025 arising out of FIR registered against under Crime No.301/2024 for alleged commission of offence under Sections 376 (2) (n) and 506 of Indian Penal Code. After investigation, the police authorities submitted charge-sheet/final report on 26.9.2024 for the alleged commission of offence under Sections 376 (2) (n) and 506 of Indian Penal Code.
6. Perusal of list of prosecution witnesses annexed along with charge-memo issued in departmental proceedings to petitioner, which is filed as Annexure P/1 to writ petition, as also the charge sheet filed in criminal case registered against petitioner, would show that Hemin Bharadwaj (complainant), Parmeshwar Bhardwaj, Urmila Bai Bhardwaj, Ajay Ogre, Vijay Ogre, Bharatlal Ogre, Jaleshwar Prasad Bharadwaj and Salik Ram



Dhritlahare (SDOP) are the witness to the departmental enquiry proceedings as also in criminal case.

7. Perusal of the articles of charge-memo would show that upon receipt of information of arrest of petitioner in connection with Crime No.301/2024 registered at Police Station City Kotwali, Mungeli for alleged commission of offence under Sections 376 (2) (n) and 506 of Indian Penal Code, a preliminary inquiry was conducted in which petitioner was found guilty of charges of misconduct levelled against him. Thereafter, charge-memo was issued to the petitioner for conducting departmental enquiry.
8. Departmental enquiry and criminal case, from perusal of the documents enclosed along with the writ petition i.e. the charge-memo and the charge-sheet filed by the police after investigation, appears to be based on criminal case registered against petitioner. About eight witnesses in both the proceedings are one and same, those witnesses may record their statement before the authorities in departmental enquiry proceedings, as also before Court and if the petitioner is forced to cross-examine those witnesses in the departmental enquiry proceedings before they are examined before the Court in the criminal case, it may make it open the defence of petitioner before the witnesses which will adversely affect the defence of the petitioner in criminal case.
9. In the case of **Capt. M. Paul Anthony (Supra)**, the Hon'ble Supreme Court in paragraph 22 had laid down certain guidelines and held that in the event if the issue involves



complicated question of law and facts, if the evidences are similar, if not identical, it would be desirable to stay the disciplinary proceedings. For ready reference paragraph No. 22 of the said judgment is reproduced here-in-under:-

"22. The conclusions which are deducible from various decisions of this Court referred to above are:

(i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.

(ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.

(iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge sheet.

(iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the Departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.

(v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, administration may get rid of him at the earliest."



10. A similar stand has again been taken by the Hon'ble Supreme Court in the case of **Stanzen Toyotetsu (Supra)** which has also been relied by the Counsel for the petitioner. The aforesaid view of the Supreme Court has further been reiterated again in the case of **Neelam Nag (Supra)**. In all these cases, the principle of law so far as stay of the departmental enquiry, in the event of the nature of allegations and the witnesses remained the same have not been diluted. The Courts have very emphatically held that for stay of the departmental enquiry, there can be no straight jacket formula which can be spelt out, it would all depend upon the facts of each case.
11. Hon'ble Supreme Court in the case of **Avinash Sadashiv Bhosle (Died) through Lrs. Vs. Union of India** reported in **(2012) 13 SCC 142** has observed that both the proceedings i.e. the departmental enquiry proceedings and the criminal case can proceed together except where both the proceedings are based on the same set of facts and evidence in both the proceedings are common.
12. The aforementioned principles laid down by the Hon'ble Supreme Court was further reiterated in the case of **Neelam Nag (Supra)**. In case of Shashi Bhushan Prasad Vs. Inspector General of C.I.S.F. reported in Civil Appeal No. 7310/2009 decided on 01.08.2019, Hon'ble Supreme Court has again reiterated the same principle as discussed above.
13. In the case at hand, the petitioner who is a Constable in the Police Department is facing a departmental enquiry as well as a



criminal case. Both the cases are based on the complaint made by complainant for alleged commission of offence under Section 376(2)(n) and 506 of IPC. About eight witnesses in both the proceedings are one and the same and if the petitioner is permitted to cross-examine those witnesses in the departmental enquiry proceedings, the defence which is setup by petitioner for criminal case would be open and therefore, in the opinion of this Court, there are sufficient grounds to allow the prayer of the petitioner in this case.

14. For the foregoing discussion, it is directed that the departmental proceedings may go on, however, the respondent authorities shall not examine witnesses namely, Hemin Bharadwaj (complainant), Parmeshwar Bhardwaj, Urmila Bai Bhardwaj, Ajay Ogre, Vijay Ogre, Bharatlal Ogre, Jaleshwar Prasad Bharadwaj and Salik Ram Dhritlahare (SDOP) who are also witnesses in criminal case till they are examined in the criminal case.

15. Accordingly, writ petition filed by the petitioner stands **allowed** to the above extent.

16. Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-