



2026:CGHC:15212



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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 2794 of 2026

- Suresh Tiwari S/o Chandradutt Tiwari Aged About 48 Years Occupation Constable, R/o Ward No. 1 Subhashnagar P.S. Gandhinagar District Surguja Chhattisgarh

... Petitioner(s)

versus

- State Of Chhattisgarh Through Secretary, Home Department, Mantralaya, Mahanadi Bhawan Raipur Chhattisgarh
- The Director General Of Police Chhattisgarh Police, Police Headquarters, Atal Nagar New Raipur Chhattisgarh
- The Inspector General Surguja Range, Ambikapur District Surguja Chhattisgarh
- The Superintendent Of Police District Surguja Chhattisgarh
- City Superintendent Of Police Ambikapur, District Surguja Chhattisgarh

... Respondent(s)

For Petitioner : Mr. Nishi Kant Sinha, Advocate

For State : Mr. Aditya Tiwari, Panel Lawyer

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

02/04/2026

- With the consent of learned counsel appearing for the parties, this case is heard finally.
- Petitioner has filed this writ petition seeking following reliefs:-

“10.1 That, this Hon'ble Court may kindly be pleased to direct the respondent authorities to produce all the relevant records relating to case of the petitioner before this Hon'ble Court for its kind perusal.



10.2 That this Hon'ble Court may kindly be pleased to allow this writ petition with a direction to the respondent authorities to ensure that disciplinary proceedings initiated against the petitioner are stayed till examination of prosecution witnesses ie., the victim and Smt. Babita Yadav, A.S.I. AJAK Surajpur who are common witnesses in departmental enquiry and criminal case against the petitioner, before the trial Court and to proceed further in the departmental enquiry thereafter.

10.3 Any other relief(s) that this Hon'ble Court may deem fit to grant in the facts and circumstances of this case."

3. Learned counsel for the petitioner submits that petitioner when working on the post of Constable at police station Surajpur, an F.I.R. was registered against him bearing Crime No. 17/2025 for alleged commission of offence under Section 64(2)(m) of Bhartiya Nyay Sanhita and Section 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. On the criminal case registered, one departmental enquiry is also initiated against petitioner. The victim in the criminal case, as also one Assistant Sub-Inspector are common witnesses in both the proceedings and if both the witnesses examined are permitted to be examined and cross-examined in the departmental enquiry proceedings before they are examined in the criminal case, it will affect the defence and cause prejudice to petitioner in defence to be taken in criminal proceedings and therefore, the witnesses who are also the witnesses in the criminal case may not be permitted to examine in the departmental enquiry proceedings till that witnesses are examined before the trial Court in criminal case. In support of his contention, he 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.



4. On the other hand, learned counsel for the respondents/State opposes the submission of counsel for the petitioner and would submit that there is no bar for continuing both the proceedings i.e. departmental enquiry and criminal case parallally . It is for the petitioner to demonstrate that the nature of allegations and the witnesses are one and same in both proceedings. Petitioner in this writ petition has not specifically pleaded the aforementioned fact and therefore, no relief as prayed for can be granted.
5. I have heard learned counsel for the parties and also perused the documents placed on record.
6. 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 is also issued to him on 16.02.2026, from the documents enclosed along with charge-memo it appears to be an outcome of Crime No. 17/2025 for alleged commission of offence under Sections of Section 64(2)(m) of BNS and Section 3(2)(5) of the SC/ST Act. After investigation, police authorities submitted charge-sheet/final report for the alleged commission of offence under Section 376(2)(N)/ 64(2)(m), 506/351(3), 294/296 of BNS and Section 3(2)(5) of the SC/ST Act.
7. From perusal of the documents enclosed along with the writ petition i.e. the charge-memo issued by the respondent – department and the charge-sheet filed by the police after investigation, it appears that departmental enquiry initiated against petitioner is based on the criminal case registered against him. Two witnesses in both the proceedings are common. That common witnesses are to be examined before the authorities in the departmental enquiry proceedings as also before the Court of competent jurisdiction in criminal case. If the petitioner is forced to cross-examine that witnesses in the departmental enquiry proceedings, before he is examined before the Court in the criminal case, it may make it open the defence of petitioner



before the witnesses and it may adversely affect the defence of the petitioner in criminal case.

8. 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."

9. A similar stand has again been taken by the Hon'ble Supreme Court in the case of **Stanzen Toyotetsu** (Supra) . 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. 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.
10. 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.
11. 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.
12. In the case at hand, the petitioner who is a Constable in the Police Department is facing a departmental enquiry based on criminal case registered against him for alleged commission of offence under Section



376(2)(N)/ 64(2)(m), 506/351(3), 294/296 of BNS and Section 3(2)(5) of the SC/ST Act. Two witnesses in both the proceedings are common and if the petitioner is permitted to cross-examine those witnesses in the departmental enquiry proceedings, the defence which is setup by the petitioner for the 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.

13. For the foregoing discussion, it is directed that the departmental proceedings may go on, however, the respondent authorities shall not examine the witnesses ie., the Victim and Smt. Babita Yadav, Assistant Sub Inspector, PS-AJAK Surajpur, who are also witnesses in the criminal case till they are examined in the criminal case.

14. Writ petition is accordingly allowed to that extent.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge