



2026:CGHC:13081



2025:CGHC:16566

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.(S) No. 6109 of 2023

1. Vivek Kumar Mahipal, S/o Shri Banas Lal Mahipal, aged about 30 years, Occupation - Service (Assistant Grade-Ii, District Education Office, Gourella-Pendra-Marwahi, District - Gourella-Pendra-Marwahi) (C.G.), R/o Village - Dhruvakari, P.O. And P.S. Pachpedi, Tehsil - Masturi, District - Bilaspur (C.G.)
2. Amit Kumar Jaiswal, S/o Late Shri Asharam Jaiswal, aged about 32 years, Occupation - Service (Assistant Grade - Ii, Govt. Middle School, Amadand, Block - Gourella), Presently On Deputation At Swami Atmanand Utkrist English Medium School, Lingiyadih, Block - Bilha, District - Bilaspur (C.G.), R/o Sanjay Nagar, Chantidih, Near Irani Chowk, Sarkanda, Bilaspur, Tehsil And District - Bilaspur (C.G.)

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Versus

- 1 - State Of Chhattisgarh Through Secretary, Department Of School Education, Mahanadi Bhawan, Naya Raipur, District - Raipur (C.G.)
- 2 - Joint Director Education Division, Bilaspur, District - Bilaspur (C.G.)
- 3 - District Education Officer Gourella-Pendra-Marwahi, District - Gourella- Pendra-Marwahi (C.G.)
- 4 - Collector, Gourella-Pendra-Marwahi District - Gourella-Pendra-Marwahi (C.G.)
- 5 - Collector, Bilaspur District - Bilaspur (C.G.)

Respondents

For Petitioners	: Shri Surfaraj Khan, Advocate.
For Respondents / State	: Smt. Deepeshwari Mahilwar, P.L.

Hon'ble Shri Justice Sachin Singh Rajput

Order on Board

18/03/2026

1. Heard.
2. Challenge in this writ petition is to an order dated 04/08/2023 (Annexure P/1) passed by the respondent No. 3 by which the promotion of the petitioner on the post of Assistant Grade - III dated 09.12.2021 was cancelled.



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3. Learned counsel for the petitioner submits that the petitioners were working as Assistant Grade -III and were posted in different places under the respondent No.3. Vide order dated 09.12.2021 (Annexure P-2), the petitioners were promoted on the post of Assistant Grand - II. In compliance of the said order, the petitioner were promoted and they have joined their respective place of posting. It appears that some complaint was made and thereafter, the impugned order dated 04.08.23 were issued by respondent No.3. Thereby canceling the promotion so made in favour of the petitioners. He submits that the impugned before passing the impugned order no opportunity of hearing or show cause notice was given to the petitioners which is utter violation of principle of natural justice. He further submits that the impugned order has civil consequence and thus until and unless the petitioners was afforded the opportunity to defend to put-forth their strength, the impugned order cannot be passed. He placed reliance upon the judgment of this Court in case of **Jaipal Nirala Vs. State of Chhattisgarh & Ors.** in **WPS No. 3720/2022** dated 16.02.2026. Thus impugned order deserve to be set aside.
4. Per contra learned counsel for the respondent submits that after the promotion of the petitioners were made, a complaint was made and thereafter inquiry was conducted and in the inquiry, promotion of the petitioner was not found in accordance with law. Thus, the impugned order was passed canceling the promotion. He further submits that the petitioners were not eligible for being promoted, thus, promotion order from the inception was bad in law. Thus, the impugned order was passed which does not require any interference. However, she is not in a position to place before this Court as to whether an opportunity of hearing was afforded or a show cause notice was issued to the petitioners before passing the impugned order.
5. Heard learned counsel for the parties and perused the record.



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6. Annexure P-2 is an order dated 09.12.2021 by which the petitioners who were working as Assistant Grade -III were promoted on the post of Assistant Grade -II and were posted on different places. It appears that in compliance of the said order, they have joined the respective place on promoted post and was performing their duty. It appears that some inquiry was conducted on a complaint being made with regard to the appointment of the petitioners and other employees, and after conclusion of the inquiry it appears that the impugned order Annexure P-1 was passed. The record does not reflect as to whether before passing the impugned order, any opportunity of hearing or show cause was given to the petitioners to put-forth their cases. It is not in dispute that the impugned order as a civil consequences and the right which has been crystalized in favour of the petitioner by virtue of order dated 09.12.2021 (Annexure P-2) and order impugned as a civil consequences by which the petitioners would be demoted back to their previous posting i.e. Assistant Grade -III. Hon'ble Supreme Court in case of **Prakash Ratan Sinha Vs. State of Bihar & Ors.** reported in (2009) 14 SCC 690 in paragraph 14 and 19 has categorically held as under :-

"9. The respondent is an instrumentality of the State, and therefore, all its administrative decisions would be subject to the doctrine of equality and fair play, as incorporated in Articles 14 and 21 of the Constitution of India. If any of its actions or administrative decisions result in civil consequences, the actions or decisions could be judicially reviewed or tested on the anvil of principles of natural justice. This principle of law has been laid down by this Court in a catena of cases.

14. Corollary principles emanating from these cases are as to what particular rule of natural justice should apply to a given case must depend to an extent on the facts and circumstances of that case and that it is only where there is nothing in the statute to actually prohibit the giving of an



opportunity of being heard and on the other hand, the nature of the statutory duty imposed on the decision maker itself implies an obligation to hear before deciding. These cases have also observed, whenever an action of public body results in civil consequences for the person against whom the action is directed, the duty to act fairly can be presumed and in such a case, the administrative authority must give a proper opportunity of hearing to the affected person.

19.The Division Bench of the Court does not dispute the fact of passing of the impugned order without hearing the appellant, but condones the procedural irregularity by bringing it under the “doctrine of futile exercise”. According to the Court, even if an opportunity of showing cause was afforded to the appellant, it would not have made any difference.”

7. This issue has also come up before this Court in case of **Jeevan Lal Verma Vs. State of Chhattisgarh & Anr.** in **WPS 1525/2023** order dated 04.11.2025 while this Court relying upon the judgment of Hon’ble Supreme Court in case of **Prakash Ratan Sinha (Supra)** in paragraph 9 is held as under :-

“From the perusal of record as also the various judgments of the Hon’ble Supreme Court, it is a well settled principle of law that before passing any order which entails civil consequences, the person concerned must be afforded an opportunity of hearing. In the present case, since the petitioner has been demoted without being given any such opportunity, the action of the respondents is violative of the principles of natural justice.”.

8. Apart from this it has to be seen that vide order dated 07.09.2023, this Court Court passed an order status quo with regard to present place of posting of



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the petitioner. That order continue from time to time. Shri Surfaraj Khan, Advocate submits that at the strength of interim order passed by this Court, the petitioners are still performing their duties as Assistant Grade – II. Thus without going into any other aspect of the matter, this Court is of the opinion that impugned order deserve to be set aside only on the ground of violation of principle justice. Thus, relying upon the judgment as cited above, this Court inclined to quash impugned order hence it is set aside. Consequence to follow. However, liberty is reserved in favour of the respondent to proceed against the petitioners in accordance with law by following the principle of natural justice.

9. Accordingly, this writ petition is allowed as indicated above.

10. All the pending applications are disposed of.

**-Sd/-
(Sachin Singh Rajput)
Judge**