



2026:CGHC:3153



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 258 of 2026

1 - Vivek Sharma S/o Nand Kumar Sharma Aged About 34 Years Posted As Head Constable (Telecommunication), P.S.- Sakari, District - Bilaspur (C.G.)
R/o - Pendari, Ward No. 12, Basti Mohlla, P.S. - Sakari, District - Bilaspur (C.G.)

--- **Petitioner(s)**

versus

1 - State Of Chhattisgarh Through The Secretary, Ministry Of Home Affairs Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, District - Raipur (C.G.)

2 - Director General Of Police Police Headquarter, Atal Nagar Naya Raipur, District - Raipur (C.G.)

3 - Inspector General Of Police Office Of Inspector General Of Police Near Nehru Chowk, Bilaspur Range, District - Bilaspur (C.G.)

4 - Superintendent Of Police District - Bilaspur (C.G.)

5 - Superintendent Of Police (Telecommunication) District - Bilaspur (C.G.)

--- **Respondent(s)**

(The Cause Title is taken from CIS system)

For Petitioner : Mr. Achyut Tiwari, Advocate

For Respondents : Ms. Anuja Sharma, Govt. Advocate

SB: Hon'ble Shri Parth Prateem Sahu, Judge

ORDER ON BOARD

19/01/2026

1. With the consent of the parties, the case is heard finally.
2. 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 from



the respondents pertaining to the case of the petitioner..

10. 2 That, the Hon'ble Court may kindly be pleased to quash/set-aside the departmental enquiry (Annexure P/3) initiated and pending against the petitioner in the interest of justice.

Or

10.3 That, the Hon'ble Court may kindly be pleased to direct the respondent authorities to keep the departmental enquiry (Annexure P-3), initiated and pending against the petitioner, in abeyance, till the final disposal of Criminal Case No.21834/2025 pending before the J.M.F.C., Bilaspur, District – Bilaspur (C.G.) in the interest of justice.

104. Any order relief (s) that this Hon'ble Court may deem fit to grant in the interest of justice”

3. Learned counsel for the petitioner submits that the petitioner while working as Head Constable (Telecommunication) and posted at Police Station Sakari, District Bilaspur, one criminal case was registered against him under Crime No.413 of 2025 for offence U/s. 296, 351(2), 74 and 3(5) of Bhartiya Nyay Sanhita, 2023 at Police Station – Sakari, District – Bilaspur. Based on the registration of criminal case, one departmental enquiry was also initiated against him. He contended that most of the witnesses in the 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 common. If petitioner has to cross-examine, those witnesses in the departmental enquiry, who are also the same witness in the criminal case, then the defence which is to be taken by the petitioner in criminal case would be open, which will adversely affect his right to defence in criminal case and therefore, the witnesses who are also the witness



in the 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.

4. On the other hand, learned counsel for the Respondents/State vehemently opposes the 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 parallely. 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, he 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**.
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 Head Constable. The departmental enquiry is initiated against him, charge-memo was issued to him on 26.11.2025 based on the registration of FIR bearing Crime No.413 of 2025 for offence U/s. 296, 351(2), 74 and 3(5) of Bhartiya Nyay Sanhita, 2023 at Police Station – Sakari, District – Bilaspur.. After investigation, the police authorities submitted charge-sheet/final report on 10.07.2025 for the alleged commission of offences as mentioned above.
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. About six witnesses namely Niharika Vastrakar, Kavilash Vastrakar, Gautam Vastrakar, Laxminarayan Vastrakar, Malti Tiwari and Pradip Kumar Arya are common in both the proceedings. Those witnesses may record their statement before the authorities in the departmental enquiry proceedings as also before the Court of competent jurisdiction. If the petitioner is forced to cross-examine those witnesses in the departmental enquiry proceedings, before they are examined in the Court in criminal case, it may make it open the defence of petitioner before the witnesses which may adversely affect the defence of the petitioner in criminal case.
8. In the case of **Capt. M. Paul Anthony (Supra)**, 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)** 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. 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 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, petitioner who is a Head Constable in the Police Department is facing a departmental enquiry based on



criminal case registered against him for alleged commission of offence under Section 296, 351(2), 74 and 3(5) of Bhartiya Nyay Sanhita, 2023 at Police Station – Sakari, District – Bilaspur.. About six witnesses in both the proceedings i.e. six witnesses namely Niharika Vastrakar, Kavilash Vastrakar, Gautam Vastrakar, Laxminarayan Vastrakar, Malti Tiwari and Pradip Kumar Arya are common and if the petitioner is to cross-examine those witnesses in the departmental enquiry proceedings before they are examined in criminal case, 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 namely, Niharika Vastrakar, Kavilash Vastrakar, Gautam Vastrakar, Laxminarayan Vastrakar, Malti Tiwari and Pradip Kumar Arya, who are also witnesses in the criminal case till they are examined in the criminal case.
14. Accordingly, this writ petition stands **allowed** to the extent indicated here-in-above.

Certified copy as per rules.

Sd/-
(**Parth Prateem Sahu**)
Judge

Balram