

CASE NO.:
Appeal (civil) 3015 of 1997

PETITIONER:
STATE OF ORISSA AND ORS.

RESPONDENT:
BAIDHARSAHU

DATE OF JUDGMENT: 02/05/2000

BENCH:
V.N. KHARE & S.N. PHUKAN

JUDGMENT:
JUDGMENT

2000 (3) SCR 911

The following Order of the Court was delivered :

The short question that arises for consideration in this case is whether the Collector of a District has the power to suspend the Stipendiary Engineer appointed by the State Government and working in connection with the affairs of the community development.

The respondent is a Stipendiary Engineer and at the relevant time was posted at Daspantapur Block in the District of Koraput, Orissa. It appears that since disciplinary proceedings were in contemplation against the respondent and, therefore, the Collector of Koraput by an order dated 8th April, 1996 suspended the respondent. The respondent challenged the aforesaid order of suspension before the Orissa Administrative Tribunal on the ground that the Collector had no authority to suspend him in contemplation of the departmental inquiry against him. The tribunal, on filing of the original application, without issuing notice to the appellants, allowed the said application holding that the Collector had no power to suspend the respondent. It is against the said judgment the appellants are in appeal before us.

Despite service of notice, the respondent has not put in appearance in this case. We, therefore, proceed to decide the matter in his absence.

Rule 12 of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962 provides that the appointing authority or any authority empowered by the Governor may place a government servant under suspension where a disciplinary proceeding against such a government servant is in contemplation or where a case against such a government servant in respect of any criminal offence is under investigation or trial. By an order dated 6.2.87, the Governor of Orissa in exercise of power under sub-rule (1) of Rule 12 of the Rules empowered the Collector of the district to suspend a government servant working in connection with the affairs of the Community Development. Subsequently, the Governor has also empowered the Collector of the district to inflict minor punishment on the government servants working with the affairs of the community development.

The tribunal was of the view that since the Collector is empowered to impose only minor punishments; the power of suspension could not be delegated to the Collector, as power of suspension is exercisable only in the case of major punishment. This view, according to us, is not legally correct. It was not disputed before the tribunal that, under Rule 12, the Governor is empowered to delegate the power of suspension on the Collector of the district. Merely because the Governor Subsequently has empowered the Collector of the district to also inflict minor punishment, it does not mean that by such delegation the Governor is denuded of his power to delegate power of suspension on the Collector. Such a view of the tribunal

is neither borne out from reading of Rule 12 nor on the interpretation of the order dated 6th February, 1987. We are, therefore, of the view that once the Collector was empowered by the Governor to suspend a government servant working in connection with the affairs of the community development, the said power continued to be exercisable by the Collector even after delegation of power on the Collector to impose minor punishment.

On the aforesaid view of the matter, the order under challenge is set aside. The appeal is allowed. There shall be no order as to costs.

JUDIS