

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1474 of 2014

- Ram Gopal Sahu S/o Shri Ganpat Ram Sahu Aged About 40 years
Occupation Service (Patwari) R/o Ramanujnagar, P.O., P.S. & Tahsil
Ramanujnagar, Revenue & Civil District Surajpur C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of
Revenue, Thana Naya Raipur, Secretariat Maha Nadi Bhawan, Raipur
C.G.
2. Commissioner Sarguja Division, Ambikapur, Revenue and Civil Distt.
Surguja C.G.
3. The Collector Surajpur, District Revenue & Civil Distt. Surajpur C.G.
4. The Sub Divisional Officer Revenue Surajpur, Revenue & Civil District
Surajpur C.G.
5. Sub Divisional Officer (Revenue) Premnagar, revenue & Civil District
Surajpur C.G.
6. Tahsildar, Tehsil Ramanujnagar, Revenue & Civil District Surajpur C.G.

---- Respondents

For Petitioner	Shri Sarfaraj Khan, Advocate
For Respondent/State	Shri S. Majid Ali, PL

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

23/07/2015

1. With the consent of the learned counsel for the parties, the matter is
heard finally.
2. The petitioner has assailed the legality and validity of the order dated
22.01.2014 passed by the SDO (Revenue), Surajpur, District Surajpur

placing him under suspension under Rule 9 (1) (3) of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 on the ground that on accusation of fabricating/interpolating with the government record, he was detained by the Police for more than 48 hours.

3. Shri Surfaraj Khan, learned counsel for the petitioner would draw attention of the Court to various documents filed and the previous litigation, wherein the petitioner's place of posting, as directed by the State Government, was amended by the Collector against which, he had preferred writ petition in which, interim relief was granted to the petitioner, therefore, the Collector has devised the method of getting him suspended by lodging a false FIR against him. He would thus, submit that the arrest itself is malafide and arbitrary.
4. In **Union of India and another v. Ashok Kumar Agrawal**¹, the following has been held by the Supreme Court:-

“26. The scope of interference by the Court with the order of suspension has been examined by the Court in a large number of cases, particularly in *State of M.P. v. Shardul Singh*, *P.V. Srinivasa Sastry v. Comptroller & Auditor General*, *ESI v. T. Abdul Razak*, *Kusheshwar Dubey v. Bharat Coking Coal Ltd.*, *Delhi Cloth & General Mills Ltd. v. Kushal Bhan*, *U.P. Rajya Krishi Utpadan Mandi Parishad v. Sanjiv Rajan*, *State of Rajasthan v. B.K. Meena*, *Prohibition and Excise Deptt. v. L. Srinivasan*—and *Allahabad Bank v. Deepak Kumar Bhola*, wherein it has been observed that even if a criminal trial or enquiry takes a long time, it is *ordinarily* not open to the court to interfere in case of suspension as it is in the exclusive domain of the competent authority who can always review its order of suspension being an inherent power conferred upon them by the provisions of Article 21 of the General Clauses Act, 1897 and while exercising such a power, the authority can consider the case of an employee for revoking the suspension order, if satisfied that the criminal case pending would be concluded after an unusual delay *for no fault of the employee concerned*. Where the charges are baseless, mala fide or vindictive and are framed only to keep the

1 (2013) 16 SCC 147

delinquent employee out of job, a case for judicial review is made out. But in a case where no conclusion can be arrived at without examining the entire record in question and in order that the disciplinary proceedings may continue unhindered the court may not interfere. In case the court comes to the conclusion that the authority is not proceeding expeditiously as it ought to have been and it results in prolongation of sufferings for the delinquent employee, the court may issue directions. The court may, in case the authority fails to furnish proper explanation for delay in conclusion of the enquiry, direct to complete the enquiry within a stipulated period. However, mere delay in conclusion of enquiry or trial cannot be a ground for quashing the suspension order, if the charges are grave in nature. But, whether the employee should or should not continue in his office during the period of enquiry is a matter to be assessed by the disciplinary authority concerned and ordinarily the court should not interfere with the orders of suspension unless they are passed in mala fide and without there being even a prima facie evidence on record connecting the employee with the misconduct in question.”

5. The argument raised by the learned counsel for the petitioner regarding malafide exercise of power in the backdrop of previous litigation may be relevant if the petitioner's suspension was based on contemplation of departmental enquiry or a pending departmental enquiry, however, when suspension order is issued on account of his detention for more than 48 hours, such plea of malafide is not available. In such a case, either the effect of FIR has to be got stayed or the same has to be quashed before holding that arrest was malafide, therefore, suspension was not justified. However, such is not the case here, therefore, in view of the law laid down by the Supreme Court in the matter of **Ashok Kumar Agrawal** (supra), the present is not a fit case for interfering with the impugned order.
6. Accordingly, the writ petition is dismissed.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA