

HIGH COURT OF CHHATTISGARH, BILASPUR

WP (S) No.457 of 2016

Dr.Hitendra Kumar Soni S/o Shri Dinbandhu Soni, Aged about 33 years, Occupation-Assistant Veterinary Surgeon, R/o. A/10, Ambika Niwas, Distt.Janjgir-Champa, Arya Residency, Janjgir (Chhattisgarh)

---Petitioner

Versus

1. The State of Chhattisgarh, Through : The Chief Secretary, New Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (CG)
2. The Secretary, Livestock Development Department, Secretariat, Mahanadi Bhawan, New Mantralaya, Raipur (CG)

---Respondents

For Petitioner	:	Mr. Sunil Kumar Soni, Advocate
For Respondents	:	Mr.Dhiraj K. Wankhede, G.A., on advance copy

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

12/02/2016

1. The petitioner was placed on suspension by order dated 17.4.2014 (Annexure P/1) by the State Government. Against which, he preferred writ petition being WPS No.4973 of 2014, which was dismissed by this Court on 28.4.2015. The petitioner preferred writ appeal against the order of writ Court being Writ Appeal No.309 of 2015 before the Division Bench of this Court that was disposed of directing the Appellate Authority to dispose of representation of the petitioner against suspension by speaking order. The State Government by its order dated 9.10.2015 (Annexure P/6) rejected the representation of the petitioner. The petitioner preferred contempt petition being Contempt Case (C) No.450 of 2015 before this Court for non-compliance of order passed in writ appeal. During pendency of the contempt case, the State Government by its order dated

14.1.2016 (Annexure P/7) revoked suspension of the petitioner and transferred him to Veterinary Hospital, Orcha, District Narayanpur on the post of Assistant Veterinary Surgeon and thereafter on 15.1.2016, contempt petition has been dismissed on the statement of the State Counsel that the petitioner has been reinstated from his status of suspension. Now the petitioner questions the order of the State Government dated 14.1.2016 (Annexure P/7) by which while revoking the order of suspension the petitioner has been transferred to Veterinary Hospital, Orcha, District Narayanpur on the ground that the Appellate Authority has no power to transfer while revoking the order of suspension and relied upon the decision rendered by the Division Bench of High Court of Madhya Pradesh in the matter of **Kendriya Vidhyalaya Sangathan and others v. Dr.R.K.Shastri and another**¹ and prayed that the impugned transfer order to the extent of transferring him to Veterinary Hospital, Orcha, District Narayanpur be set aside.

2. I have heard learned counsel for the petitioner on the question of admission of the writ petition.

3. In very recent decision reported in the matter of **Ajay Kumar Choudhary v. Union of India Through its Secretary and Another**² the Supreme Court has deprecated the practice of the State in continuing the suspension for indefinite period and further held that the Government is at liberty to transfer the person concerned to any department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him and observed as under:-

¹ 2005 (4) M.P.H.T. 352

² (2015) 7 SCC 291

“21. We, therefore, direct that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the person concerned to any department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise that the previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time-limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation, departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us.”

4. In view of authoritative pronouncement rendered by the Supreme Court in the matter of **Ajay Kumar Choudhary** (supra), it cannot be held that the Government is unjustified in transferring the petitioner to other place while revoking his suspension.

5. Consequently, the writ petition deserves to be and is accordingly dismissed in *limine*. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-