

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) No. 2089 of 2016**

Kuleshwar Prasad Choure S/o Late H. R. Choure, Aged About 43 Years Vidyut Nagar, Durg, P. S. Pulgaon, District Durg (Chhattisgarh).

---- Petitioner

Versus

1. State Of Chhattisgarh Through : The Secretary, Legal Metrology, Indravati Bhawan, Raipur (Chhattisgarh).
2. Controller, Legal Metrology Department, Indravati Bhawan, Raipur (Chhattisgarh).

-----Respondents

For Petitioner : Shri T.K. Tiwari, Advocate.

For Respondents/State : Shri Adhiraj Surana, Dy. Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****07.06.2016**

1. The present Petition has been preferred challenging the impugned order Annexure P/1 dated 25.05.2016 whereby the service of the Petitioner has been placed under suspension.
2. A brief fact in the present case is that the Petitioner was trapped in a proceeding of Anti Corruption Bureau in a case alleging demand of money from the complainant Mr. Ajay Sinha. He was arrested and sent to judicial custody. Thereafter, the Petitioner was placed under suspension from the department vide order dated 03.11.2014 and the suspension was made effective from 30.10.2014 i.e. on the date from which he was taken into custody. In the instant case since the charge sheet was not filed for almost an

year, on this ground the Petitioner filed a Writ Petition before the High Court which was registered as W.P.(S) No. 1422 of 2015. The High Court on 10.12.2015 disposed of the Writ Petition with a direction to the Respondent to consider the representation of the Petitioner preferred against the suspension order keeping in view the decision of the Hon'ble Supreme Court in the matter of ***Ajay Kumar Choudhari Vs. Union of India and Others* reported in (2015) 7 SCC 291**. Based on the said direction given by the High Court the State Government after considering the case of the Petitioner taking note of the view that charge sheet has not been filed, passed an order dated 29.12.2015, Annexure P/4 revoking the suspension order taking him back in the service.

3. Subsequently, on 18.04.2016 the charge sheet was filed before the Special Court, Rajnandgaon. Since the charge sheet was filed, the department vide the impugned order taking into consideration the seriousness of the allegation and charges levelled against the Petitioner, again placed the Petitioner under suspension which is under challenge in the present Writ Petition.
4. Learned Counsel for the Petitioner submits that the second suspension order issued by the Respondent is totally uncalled for and is contrary to the law laid down by the Supreme Court in its judgment in the case of *Ajay Kumar Choudhari (Supra)* wherein the Supreme Court has made an observation that no suspension for a period beyond 3 months can be extended and in the instant case the Petitioner was initially placed under suspension on 03.11.2014 and charge-sheet was not filed even over a period of more than one year and once having revoked the earlier suspension order the subsequent placing of the Petitioner under suspension is contrary to the judgment of the Supreme Court. He further submits that even the charge sheet that has been filed is not complete to the extent that the electronic document has not been submitted before the Court, therefore, there is illegality and irregularity on the part of the department. The impugned order also does

not mention the period for which the Petitioner shall be placed under suspension, which again is contrary to the directives given by the Supreme Court in Case of *Ajay Kumar Choudhari (Supra)*.

5. Learned State Counsel however opposes the Petition and submits that it is the case where there is serious allegation of corruption against the present Petitioner and it is a case where he was caught red handed taking money by Anti Corruption Bureau. He was only then charged for the offences under Section 7, 13(1) D and 13(2) of the Prevention of Corruption Act, 1988. Taking account of seriousness of the charges the present Petitioner has been placed under suspension. The State Counsel also draws attention of the Court towards the fact that the Petitioner was taken back to services revoking suspension on 29.12.2015 as the charge-sheet had not been filed, but when the complete charge sheet was filed subsequently on 18.04.2016, in the changed circumstances, the authorities have exercised their power to place him under suspension taking into consideration the gravity of the offence leveled against the present Petitioner.
6. Considering the submission made by the rival Counsel on the either side and on the perusal of the judgment of *Ajay Kumar Choudhari (supra)* and para 21 of it which was cited by the Counsel for the Petitioner it clearly indicates that the said judgment was passed in the context where the charge-sheet was not filed within a reasonable period and for a long period the delinquent was placed under suspension. It is further submitted that it is very categorically stated the fact that the suspension of service should not be normally extended beyond a period of 3 months within the said period if charge-sheet is unserved and the judgment does not anywhere state specifically that an employee cannot be placed under suspension in the changed circumstances. The facts of the said case and the ratio laid down is quite distinguishable from the present case.

7. In the opinion of this Court if the circumstances have changed and charge sheet has been filed on 18.04.2016, the department has all the powers upon it for placing an employee under suspension under Rule 9(1) of Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966. The first proviso which was inserted in the year 1966 specifically envisages that a Government servant shall invariably be placed under suspension when a challan for a criminal offence involving corruption or other moral turpitude is filed against him. The present case squarely falls within the first proviso of Rule 9(1) of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966.
8. For the aforesaid reasons this Court does not find any illegality in the issuance of order dated 25.05.2016 by the Respondent placing the Petitioner under suspension.
9. Accordingly, the Petition devoid of merits, the same is dismissed.

Sd/-

(P. Sam Koshy)
V. JUDGE