

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5420 of 2014**

M.R. Sahu, S/o Mayaram Sahu, aged about 43 years, R/o. Zero Point, Baronda, S.F.R.T.I., Raipur, Civil and Revenue District Raipur (C.G.)

Petitioner**Versus**

1. State Of Chhattisgarh Through: Chief Secretary, Forest Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur (C.G.)
2. Principal Chief Conservator of Forest, Aranya Bhawan, Chhattisgarh, Raipur, District Raipur (C.G.)
3. Director, State Research and Training Centre, Zero Point, Near Vidhan Sabha, Baloda Bazar Road, Raipur, Chhattisgarh
4. Shri K.C. Yadav, Director, State Research and Training Centre, Zero Point, Near Vidhan Sabha, Baloda Bazar Road, Raipur, Chhattisgarh

---- Respondents

For Petitioner : Shri Manoj Paranjpe, Advocate

For Respondents : Shri Y.S. Thakur, Dy.Advocate General

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****06/01/2016**

Heard.

(1) The petitioner, who is working as Forest Ranger duly appointed by the State Government, has called in question the legality, validity and correctness of the order placing him under suspension on 25.09.2014 passed by respondent No.2- Principal Chief Conservator of Forest, Raipur merely on the ground that his appointing authority is the State Government and the Principal Chief Conservator of Forest has no authority and jurisdiction to place him under suspension and reliance has been placed upon the Circular dated 20.08.1997 issued by erstwhile State of Madhya Pradesh.

(2) In the return filed by the respondents/State, the State Government has taken a stand that head of the department i.e. Principal Chief Conservator of Forest is authorised by order dated 12th September, 1983 & 21st August , 1984 issued by erstwhile State of Madhya Pradesh to impose minor penalty and to place the petitioner under suspension.

(3) Thus two conflicting circular firstly dated 20.08.1997 issued by erstwhile State of Madhya

Pradesh brought on record by petitioner whereas the State Government has brought two orders i.e. 12th September, 1983 & 21st August, 1984 that too issued by erstwhile State of Madhya Pradesh to buttress their submissions.

(4) Reading of the aforesaid Circulars issued by the erstwhile State of Madhya Pradesh, it is not clear that as to whether State Government has delegated the power to the Principal Chief Conservator of Forest to place the Forest Range Officer under suspension or whether the State Government is the authority to place the Forest Range Officer after under suspension, as there is no circular/order issued by new State of Chhattisgarh in this behalf therefore, in the considered opinion of this Court it would be expedient to direct the respondent No. 1 – State Government to consider and to find out who is person entitled to place the Forest Range Officer on suspension as per circulars or any circulars issued by the State Government in this behalf to give quietus to such dispute for all the times to come expeditiously and further to consider continuance of suspension; in view of the decision rendered by the Supreme Court in the matter of Ajay Kumar

Choudhary Vs. Union of India through its Secretary

and another¹ specially keeping in view the binding observations by the their Lordships of the Supreme Court made in para 9 of the above order and to pass reasoned order within 60 days from the date of receipt of communication, which states as under:-

“9. Protracted periods of suspension, repeated renewal thereof, have regrettably become the norm and not the exception that they ought to be. The suspended person suffering the ignominy of insinuations, the scorn of society and the derision of his Department, has to endure this excruciation even before he is formally charged with some misdemeanour, indiscretion or offence. His torment is his knowledge that if and when charged, it will inexorably take an inordinate time for the inquisition or inquiry to come to its culmination, that is to determine his innocence or iniquity. Much too often this has now become an accompaniment to retirement. Indubitably the sophist will nimbly counter that our Constitution does not explicitly guarantee either the right to a speedy trial even to the incarcerated, or assume the presumption of innocence to the accused. But we must remember that both these factors are legal ground norms, are inextricable tenets of common law jurisprudence, antedating even the Magna Carta of 1215, which assures that-“We will sell to no man, we will not deny or defer to any man either justice or right.”. In similar vein the Sixth Amendment to the Constitution of the United States of America guarantees that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial. Article 12 of the Universal

1 2015 AIR SCW 2520

Declaration of Human Rights, 1948 assures that -"No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of law against such interference or attacks". More recently, the European Convention on Human Rights in Article 6(1) promises that "in the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time...."and in its second sub-article that "everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law".

(5) Accordingly, the petitioner is directed to prefer representation within a period of 15 days from today to the State Government along with all the necessary documents and the circulars issued by the erstwhile State of Madhya Pradesh; and the State Government after hearing both the parties shall take a decision in accordance with law expeditiously preferably within a period of 60 days from the date of receipt of representation and also to consider feasibility of issuing new circular indicating the authority of Head of Department to place the Forest Range Officer on suspension.

(6) Since the impugned order shall remain in operation since 14.10.2014, therefore, it will remain in

operation for further period of 60 days from today.

(7) With the aforesaid observations, the writ petition stands finally disposed of.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-