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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No. 4377 of 2016

Devendra Kumar Choudhari S/o Dharam Singh Choudhari Aged About 41 Years Occupation Nayab Tahsildar Patna Koria R/o Bilai Tanger, Infront Of Masjid, Patthalgaon, District Jashpur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Revenue Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur Chhattisgarh.
2. Commissoner, Surguja Division District Surguja Chhattisgarh.
3. Collector, Koria District Koria Chhattisgarh.

---- Respondents

For Petitioner : Mr. Syed Majid Ali, Advocate
For Respondents/State : Mr. S.P. Kale, Dy. A.G.

Hon'ble Shri Manindra Mohan Shrivastava, J.

Order on Board

02/09/2016

Heard.

1. The petitioner has filed this petition seeking a direction to respondent No.3 to revoke the suspension order by consideration of his case.

2. Relying upon a recent judicial pronouncement of the Supreme Court in the case of Ajay Kumar Choudhary V. Union of India, (2015) 7 SCC 291, learned counsel for the petitioner contended that the Supreme Court has held that where charge-sheet is not served within three months from the date of suspension, reasoned order for extension of suspension is not passed, the suspension order could not continue beyond period of three months. In the present case, it is

argued, the suspension order was passed on 3.10/11.2012 but even after a lapse of three months, charge-sheet has not been issued.

3. Learned State counsel draws attention of this Court to what has been held by the Supreme Court in para 21 of the aforesaid judgment.

4. Reproduced the aforesaid paragraph as below :-

> "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 concerned person 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 recognized 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."

5. Learned State counsel submits that in view of the aforesaid decision of the Supreme Court, the case of the petitioner would require consideration by the authority, who has passed the suspension order i.e. respondent No.3.

6. Considering the aforesaid submission, at this stage, this petition is disposed off with a direction to respondent No.3 to consider revocation of petitioner's suspension in view of the judicial pronouncement of the Supreme Court in the case of Ajay Kumar Choudhary (supra), direction under which have been reproduced herein above. Let a decision be taken within a period of three weeks and suitable orders in accordance with law be passed by respondent No.3.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Tiwari