

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3356 of 2016

Bhushan Lal Patel S/o Ganeshu Ram Patel, Aged About 45 Years
R/o Gram Panchayat, Kushmund, Janpad Panchayat Aarang, Police
Staiton Aarang, District Raipur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Panchayat & Gramin Development Department, Mantralaya, New Raipur, Police Staiton Rakhi, District Raipur Chhattisgarh
2. The Collector, Raipur, District Raipur, Chhattisgarh
3. Chief Executive Officer, Zila Panchayat, Raipur, District Raipur Chhattisgarh
4. Chief Executive Officer, Janpad Panchayat Aarang, Distirct Raipur Chhattigarh

---- Respondents

For Petitioner	:	Shri Vinod Deshmukh, Advocate appears under instructions from Mr. P.K. Patel, Advocate
For Respondent-State	:	Shri Sangharsh Pandey, Dy. Govt. Advocate

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

17/08/2016

Heard.

1. The petitioner has filed this petition aggrieved by continuance of suspension.

2. The petitioner has prayed for direction to revoke suspension order dated 09.04.2012.

3. Submission of learned counsel for the petitioner is essentially based on the mandate of the Supreme Court in the case of **Ajay Kumar Choudhary V. Union of India, (2015) 7 SCC 291**, whereas the Supreme Court has authoritatively pronounced thus -

“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.”

4. Learned counsel for the petitioner referring to aforesaid decision submits that the long continuance of the petitioner on suspension is no longer justified in view of the aforesaid decision not even on the ground that criminal case is pending, as a result of which, departmental enquiry has also remained in limbo without any final decision.

5. The decision of the Supreme Court and the mandate as referred to above requires the respondent No.3 to consider the petitioner's case for revocation of suspension in the light of aforesaid decision wherein, the Supreme Court has deprecated long continuance of suspension. This Court further feels it pertinent to highlight that in the aforesaid decision, the Supreme Court negated the contention regarding long continuance of suspension on the ground of pendency of criminal case.

6. In view of the above, the authority is required to consider the case of the petitioner regarding revocation of suspension. The respondent No.3 shall take decision in the matter within a period of three weeks from the date of receipt of copy of this order and suitable orders be passed in accordance with law and the decision of the Supreme Court.

7. With the aforesaid observations, the petition is finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge