

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5419 of 2017**

Balesh Kumar Sarthi S/o Late Ravi Lal Sarthi, Aged About 49
Years Occupation Service, Posted As Assistant Grade III, In
Janpad Panchayat Kawardha, District Kabirdham, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Principal Secretary Panchayat
And Rural Development Department, Mahanadi Bhawan, New
Raipur, Chhattisgarh
2. The Janpad Panchayat Kawardha, Through Its Chief Executive
Officer, Kawardha, District Kabirdham, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Rakesh Pandey, Advocate.
For State	:	Mr. A.S. Kachhawaha, Additional A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order on Board****12/10/2017**

Heard.

1. The petitioner's grievance is that even though the petitioner was suspended, way back on 29.10.2015, on certain allegation of misconduct in respect of which charge-sheet has been issued and departmental enquiry is pending, suspension order is continuing without being revoked.
2. It is shocking that the petitioner has been continued under suspension for such a long time and at the same time, departmental enquiry is also not concluded. Long continuation of suspension had come under the scanner of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary V. Union of India**,

(2015) 7 SCC 291. Their Lordships in the Supreme Court expressed their concern and deprecated long continuation of suspension 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 recognize 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.”

3. Therefore, in these circumstances, the respondent No.2/Chief Executive Officer, Janpad Panchayat, Kawardha is directed to immediately take up the matter for consideration and revoke the suspension order forthwith. Moreover, the departmental enquiry should also be expeditiously concluded.

4. The petition is accordingly disposed off.

Sd/-

(Manindra Mohan Shrivastava)
J U D G E