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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3338 of 2017**

S. K. Tiwari S/o Late Kishan Lal Tiwari, Aged About 57 Years R/o Q.
No. D 19, Songanga Colony, Seepat Road, Near Science College, P. S.
Sarkanda, Bilaspur, District Bilaspur Chhattisgarh.

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Cooperative Societies, Mahanadi Bhawan, Mantralaya, New Raipur, P. S. Rakhi, District Raipur (Chhattisgarh)
2. The Registrar, Cooperative Societies, Chhattisgarh, Block B, Second & Third Floor, Indrawati Bhawan, New Raipur, P. S. Rakhi District Raipur Chhattisgarh.
3. The Deputy Director, Cooperative Societies, Bilaspur, District Bilaspur (Chhattisgarh)

...Respondents

For Petitioner	:	Mr. Rajkumar Gupta, Advocate
For State-respondent	:	Mr. Manish Nigam, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****26/07/2017**

Heard.

1. The petitioner has filed this petition aggrieved by long continuance of suspension order dated 27.07.2016.
2. Learned counsel for the petitioner submitted that on certain allegations of misconduct, the petitioner was suspended on 27.07.2016 and thereafter, a charge sheet was issued to the petitioner on the same date. However, it is argued that the departmental enquiry is proceeding with snails pace and except appointment of Enquiry Officer, no proceedings have taken place in the departmental enquiry.
3. Long continuance of suspension has been strongly deprecated by the Supreme Court in a recent decision in the case of **Ajay Kumar Choudhary V. Union of India, (2015) 7 SCC 291**, their Lordships in the Supreme Court expressed their concern by holding 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. Present is a case where the petitioner is continuing on suspension for the last one year and there are allegations of the petitioner that the departmental enquiry is not proceeding further. This relevant considerations must be borne in mind by the competent authority to consider revocation of suspension, at this stage, keeping in view the declaration of law by the Hon'ble Supreme Court in the case of *Ajay Kumar Chaudhary (supra)*. It may be that the petitioner did not file any appeal against the order of suspension. Even in such a case where there may not be any challenge to the validity of suspension order at its inception, long continuance of suspension order may justify revocation at a later stage.
5. Let a decision with regard to the petitioner's case towards revocation of suspension of the petitioner be taken by respondent No. 2 within a period of 45 days from the date of receipt of copy of this order.
6. With the aforesaid observation, the petition is disposed off.

Sd/-
(Manindra Mohan Shrivastava)

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