

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 2895 of 2017**

Sahant Ram Nikunj S/o Mohnaram Nikung, aged about 69 years, R/o
Primary School, Kharra, Block Odgi, District Surajpur (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh through its Secretary, Department of School Education, Mantrayala, Mahanadi Bhawan, Capital Complex, New Raipur District Raipur (Chhattisgarh)
2. Director, Public Education, Directorate, New Raipur, District Raipur (Chhattisgarh)
3. District Education Officer, Surajpur, District Surajpur (Chhattisgarh)
4. Block Education Officer, Odgi, District Surajpur (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Ashok Patil, Advocate
For Respondent/State	:	Shri A. S. Kachhawaha, Addl. A. G.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****07/07/2017**

Challenge in the present writ petition by the petitioner is the order dated 29.06.2016 whereby the services of the petitioner has been placed under suspension invoking Rule 9 of Chhattisgarh Civil Services (Classification, Control and Appeal) Rule, 1966 (hereinafter referred as "CCSCCA Rules").

2. The solitary ground raised by the petitioner in the present writ petition is that in spite of the fact that he has been placed under suspension for more than a year, the respondents have not proceeded further against him either departmentally or by any order of punishment or initiating any sort of disciplinary action against the petitioner.

3. Contention of the counsel for the petitioner is that Sub-Rule 5 of Rule 9 of the CCSCCA Rules clearly envisages that in the event if the charge sheet or for that matter disciplinary proceeding has not been initiated against the delinquent employee within a period of 45 days from the date of order of suspension, the same should be revoked. Relying upon this rule position, counsel for the petitioner sought for a direction to the respondents for revocation of the suspension order.

4. For ready reference Sub Rule 5 of Rule 9 of CCSCCA Rule, 1966 is reproduced herein under:

“(5) (a) An order of suspension made or deemed to have been made under this rule, shall continue to remain in force until it is modified or revoked by the authority competent to do so:

[Provided that the order of suspension shall stand revoked on expiry of the period of forty-five days from the date of order of suspension in case a copy of charges and other documents referred to in sub-rule (2-a) are not issued to such Government servant by the disciplinary authority (if it is not the State Government) without obtaining the orders of the State Government for extension of the period for issue of the said documents, as required under sub-rule (2-b):

Provided further that the order of suspension shall stand revoked on expiry of the period of 90 days from the date of order of suspension, in case the copy of charges and other documents referred to in sub-rule (2-a) are not issued to such Government servant.]

[(b) In respect of a Government servant, whose orders of suspension stand revoked in accordance with the first or second proviso of clause (a) the authority competent may, if it considers expedient so to do, place him under suspension after a copy of charges and other documents, as required by sub-rule (4) of Rule 14, have been issued to him.]”

5. The rule provision is very explicit. Admittedly, in the instant case the order of suspension was issued more than a year ago and the petitioner has not been served with a charge sheet neither has any step been taken by the respondents to initiate disciplinary proceeding against him.

6. At this juncture, it would be relevant to refer to the judgment of the Hon'ble Supreme Court in the case of **State of M. P. Vs. L. P. Tiwari** reported in **(1994) 4 SCC 468**. The relevant portion is reproduced hereinunder:

“The object appears to be that the competent authority having placed a delinquent officer under suspension, cannot sit over the case without prompt follow-up action of conducting an inquiry into the alleged misconduct. The dereliction thereof entails the authority with denuding the power to continue the officer under suspension, though the power of enquiry subsists.”

7. Considering the aforesaid factual matrix of the case and also relying upon the decision of the Supreme Court, this Court is of the opinion that the case of the petitioner thus requires reconsideration by the respondents.

8. In view of the same, it is directed that the respondents particularly respondent no.3 shall take appropriate step to consider whether the suspension of the petitioner has to be continued? If not, then appropriate step has to be taken at the earliest. In either way, the petitioner shall be intimated regarding the decision taken by the competent Authority.

9. With the aforesaid direction, the present writ petition stands disposed of.

Sd/-

(P. Sam Koshy)
JUDGE