

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No.3455 of 2017

- Chhedilal Jaiswal S/o Shri Devi Prasad Jaiswal, Aged About 54 Years, R/o Songanga Collony, Seepat Road, Bilaspur, District Bilaspur, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through The Secretary, Department Of Schedule Tribe & Schedule Caste Development, Mantralay, New Raipur, Mahanadi Bhawan, District Raipur, Chhattisgarh

---- Respondent

For Petitioner	:	Shri Vinod Deshmukh, Advocate
For Respondent/State	:	Shri Manish Nigam, Panel lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

13/11/2017

Heard.

2. While the petitioner was working as Chief Executive Officer, Janpad Panchayat, Wadraf Nagar, on the certain allegations, criminal case No.114/2015 was registered against him, alleging commission of offence under Section 13(1)(d) & 13(2) of the Prevention of Corruption Act, 1988. Later on, when charge sheet was filed in the Court on 21-04-2017, the petitioner was placed under suspension by order dated 21-06-2017. This petition has been filed by the petitioner being aggrieved by long continuation of suspension.

3. Learned counsel for the petitioner submits that after filing of the charge sheet before the trial Court on 21-04-2017, no substantial progress has been made and even charges have not been framed till date. It is submitted that delay in filing charge sheet as well as for framing charges, the petitioner is not responsible. Placing reliance on a decision in the case of ***Suresh Kumar Purohit vs. State of M.P. And Another, (2005) 4 MPLJ 524***, learned counsel for the petitioner would submit that in a case,

where suspension is based on institution of criminal case, suspension cannot continue for long period without proper justification. He submits that there is no justification for long continuance of suspension.

4. Learned State counsel would submit that the petitioner is charged of corruption and filing of the charge sheet shows that prima facie case is made out against him and it cannot be said, at this stage, that there has been so much delay, which entitle the petitioner for revocation of suspension.

5. It appears that on the allegations of being involved in corrupt practice, the petitioner has been subjected to criminal case and charge sheet has also been filed. At the same time, the petitioner was continued under suspension with effect from 21-06-2017. The respondents may consider the case of the petitioner as to whether continuance of suspension is justified or not.

6. The guidelines issued by the Supreme Court in the case of ***Ajay Kumar Choudhary V. Union of India, (2015) 7 SCC 291***, as under:

“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.”

7. Considering the aforesaid submission, at this stage, this petition is disposed off with a direction to respondent to consider revocation of petitioner's suspension, in view

of the guidelines issued by the Supreme Court in the case of ***Ajay Kumar Choudhary*** (supra), reproduced hereinabove and decision be taken within a period of 30 days from the date of receipt of a copy of this order and suitable orders in accordance with law be passed by the respondent. It is made clear that this Court has not commented upon the merits of the case and it will be open for the concerned authority to examine the matter.

SD/-
(**Manindra Mohan Shrivastava**)
Judge