

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5386 of 2017**

Shailendra Kumar Dixit S/o Shri Lalji Dixit, Aged About 56 Years
Upper Division Teacher (Suspended) Resident Of Ward No. 9,
Nagar Panchayat Bodri, District Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of School Education, Mahanadi Bhawan, Mantralaya New Raipur, District Raipur Chhattisgarh.
2. District Education Officer, Bilaspur, District Bilaspur Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Ajay Shrivastava, Advocate.
For State	:	Mr. Shashank Thakur, G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order on Board****29/11/2017**

Heard.

1. Despite last indulgence, reply has not been filed.
2. The petitioner has challenged the continuation of suspension order dated 14.09.2016 on the submission that as the suspension order has not been served on the petitioner within a period of three months, the suspension order is liable to be revoked. In support of this submission, learned counsel for the petitioner places reliance upon the mandate 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.

3. In view of the aforesaid direction, it is clear that 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. The direction of the Supreme Court is required to be followed by the authorities.

4. Learned counsel for the State would submit that the suspension order was issued on 14.09.2016 and soon thereafter, a charge-sheet was also issued and sent to the petitioner at the place where he was attached which is reflected from memo dated 19.10.2016 (Annexure P/3) placed on record. He would submit that the petitioner was attached in Government Surajmal Higher Secondary School Bilha and the charge-sheet was served on the petitioner in the said office only.

5. The aforesaid factual statements are, however, disputed by learned counsel for the petitioner and he submits that the petitioner actually did not receive the charge-sheet even though he remained attached in that office.

6. It is necessary, therefore, to find out whether the charge-sheet was served on the petitioner or not. If the petitioner has remained attached in a particular office and charge-sheet is sent to that office, the concerned officer In-charge of that office is under an obligation to serve the charge-sheet.

7. Learned State counsel rightly submitted that there may be an attempt by the employee to avoid service of charge-sheet. The factual enquiry is necessary in this aspect as to whether the charge-sheet was served upon the petitioner or even if an attempt was made to serve, the petitioner avoided. If there is material to show that despite attempts made, the petitioner avoided to receive the charge-sheet, a different conclusion may be required.

8. The District Education Officer, Bilaspur shall hold a factual enquiry whether charge-sheet dated 19.10.2016 issued by him reached the office of Principal Government Surajmal Higher Secondary School, Bilha before expiry of period of 3 months from the date of suspension of the petitioner and whether the petitioner, despite being offered the charge-sheet avoided to receive the same. If it is found that the charge-sheet was not served without any fault of the petitioner, the petitioner shall be entitled to be reinstated in service in view of the decision of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary (supra). However, if it is found that despite all attempts were made, the petitioner avoided to receive the charge-sheet, different conclusion may be drawn. Necessary enquiry shall be completed by the District Education Officer within a period of three weeks from the date of receipt of copy of this order and appropriate orders in writing shall be passed. In case, the petitioner's grievance is not redressed, the petitioner would be at liberty to file fresh petition.

9. With the aforesaid liberty, the petition is disposed off.

Sd/-

(Manindra Mohan Shrivastava)
J U D G E