

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4294 of 2017**

Jaishri Kesharwani D/o Shri Deenbandhu Kesharwani, Aged About 44 Years
Occupation Government Service R/o Dhagardeepa, Raigarh, District Raigarh
Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through Secretary, Revenue Department Mahanadi Bhawan, New Mantralay, District Raipur Chhattisgarh
 2. The Collector (Land Record) Raigarh District Raigarh Chhattisgarh
 3. The Sub Divisional Officer, (Revenue) Raigarh District Raigarh Chhattisgarh
- **Respondents**

For Petitioner	:	Mr. Vineet Kumar Pandey, Advocate
For Respondent/State	:	Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****07/09/2017**

Heard.

1. The petitioner has challenged the legality and validity of suspension order dated 13.07.2016 and has also ventilated grievance on account of continuation of suspension order for the last more than one year.
2. Learned counsel for the petitioner submits that the second proviso to sub-rule (1) of Rule 9 of the Chhattisgarh Civil Services (Classification, Control And Appeal) Rules, 1966 obliged the Sub-Divisional Officer and authority subordinate to the appointing authority of the petitioner, to forthwith report to the appointing authority the circumstances in which the order was made. He submits that this provision has been violated, therefore, the suspension order

deserves to be set aside.

3. The other submission, in the alternative, is that in any case, looking to the nature of allegation on which the petitioner was suspended, there is no justification for continuing the suspension of the petitioner for the last more than one year as the charges cannot be termed so grave as to warrant continuation of suspension for such a long period.
4. On the other hand, learned State counsel submits that the petitioner having not challenged the suspension order for the last 1 year either by filing of an appeal or by filing of writ petition, the prayer is liable to be rejected. As far as the second part is concerned, it is submitted that the direction may be issued for consideration of petitioner's case for revocation to the competent authority.
5. The petitioner was suspended vide order dated 13.07.2016. The Sub-Divisional Officer (Revenue) is admittedly an authority to subordinate to the Collector, who is the appointing authority of the petitioner.
6. Second proviso to sub-rule (1) of Rule 9 of the Rules of 1966 provides as below

“Provided further that where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.”

A reading of the aforesaid provision shows that the requirement in a situation where suspension order has been passed by an authority subordinate to the appointing authority is that the authority shall forthwith report to the appointing authority the circumstances in which the order was made.

7. The impugned order shows that the order of suspension was forwarded to the Collector.
8. A reading of the suspension order shows that it is detailed one and enumerates the circumstances in which the petitioner was suspended. Therefore, in the

considered opinion of this Court, the statutory requirement of sending report of circumstances in which suspension was made, has been substantially complied with. Therefore, on this ground, suspension order cannot be interfered with. Moreover, the petitioner did not challenge the legality and validity of the suspension order at its inception on such ground for the last one year, either by filing appeal or by filing any petition before this Court. Therefore, the suspension order, as issued on 13.07.2016, does not warrant any interference.

9. However, there is considerable force in the submission of learned counsel for the petitioner that looking to the nature and gravity of allegations leveled against the petitioner, continuation of his suspension for such a long period is wholly unjustified.
10. I find that the nature of allegations which have been leveled against the petitioner are not of such a nature, which warranted continuation of his suspension for such a long period. This practice has been seriously deprecated by the Supreme Court in its authoritative pronouncement in the case of **Ajay Kumar Choudhary v. Union of India through its Secretary and another, (2015) 7 SCC 291**, wherein their Lordships in the Supreme Court expressed their concern against long continuation of suspension by observing 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 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.”

11. In these circumstances, the appointing authority or the authority, who suspended the petitioner is obliged under the law to consider revocation of suspension of the petitioner. This Court has already noted that the charge-sheet has also been issued and enquiry is pending.

12. In the result, this petition is disposed off with the direction to consider petitioner's case for revocation of suspension within a period of 30 days from the date of receipt of copy of this order.

Sd/-
(Manindra Mohan Shrivastava)
Judge