

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No.4666 of 2017

- Sabina Yasmin D/o Mohd. C. A. Laskar, Aged About 42 Years Lecturer
(Panchayat) R/o Near Hemunagar Over Bridge, Ganesh Nagar, Police Station
Sirgitti, Bilaspur, District Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Panchayat & Rural Development
Department, Mahanadi Bhawan, Police Station New Raipur, Tahsil Raipur, Civil
& Revenue District Raipur, Chhattisgarh.
2. Collector, Bilaspur, District Bilaspur, Chhattisgarh.
3. Chief Executive Officer, District Panchayat, Bilaspur, District Bilaspur,
Chhattisgarh.
4. Assistant Project Officer-Cum- Departmental Enquiry Officer, District Panchayat
Bilaspur, District Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Vaibhav Goverdhan, Advocate
For Respondent/State	:	Shri S. P. Kale, Dy.AG

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

11/09/2017

Heard.

2. The petitioner's grievance as ventilated through this petition is on account of long continuance of suspension ever since 30-01-2016 and non supply of deposition copies of witnesses, examined during enquiry proceedings.

3. Learned counsel for the petitioner submits that though petitioner was suspended as early as on 30-01-2016, his suspension has not been considered for revocation. Learned counsel for the petitioner argued that long continuance of suspension has been seriously deprecated by the Supreme Court in the case of **Ajay Kumar Choudhary V. Union of India, (2015) 7 SCC 291**. It is further submitted

that despite various request made by the petitioner, copy of deposition of witnesses examined during enquiry proceedings have not been supplied. It is next submitted that for effective defence and cross-examination of other witnesses or exercising his right of defence, copies of deposition would be necessary.

3. As far as grievance of the petitioner with regard to suspension is concerned, this Court appreciates the submission that the petitioner has remained under suspension for more than 1 & ½ year. In the backdrop of the nature and gravity of charges in the charge sheet, this Court found that the charges are not so grave which required suspension to be continued for a long time, particularly when the departmental enquiry has not been completed. The petitioner is a low paid teacher. Therefore, taking into consideration the totality of the circumstances, this Court is inclined to issue direction to respondent No.3 to consider petitioner's case for revocation of suspension. It would be apposite to reiterate the view taken by the Supreme Court in the case of **Ajay Kumar Choudhary** (supra), deprecating long continuance 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. 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.” In the background of pleading and that earlier this Court had issued direction for grant of senior pay scale which was granted to the petitioner from 31-10-2009, the respondents deserve to be directed for consideration of representation.

4. The other ground that the copies of deposition was not supplied to the petitioner, appears to be reasonable. When the evidence is recorded, copies of deposition should be supplied to the petitioner because that only helps the delinquent

employee to prepare his defence in times to come till evidence of prosecution is over. There is no reason as to why such documents should be withheld. The petitioner's request is liable to be acceded to. True copies of the deposition of witnesses, who have already been examined by now, should be supplied to the petitioner on or before the next date of hearing in the departmental enquiry.

5. Accordingly, this petition is finally disposed off with a direction to consider petitioner's case for revocation of suspension in the light of observation made by this Court within a period of 30 days from the date of receipt of a copy of this order as also to supply the copy of depositions on or before the next date of hearing in the departmental enquiry.

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