

**HIGH COURT OF CHHATTISGARH, BILASPUR****WPS No. 4751 of 2016**

Khemdas Sahu S/o Late Dayaram Sahu Aged About 59 Years R/o.  
Ward, No. 56, Urla, Police Station Pulgaon, Civil And Revenue  
District-Durg, Chhattisgarh. **---- Petitioner**

**Versus**

1. State Of Chhattisgarh Through: The Secretary, Revenue Department, Mahanadi Bhawan Mantralya, New Raipur, District-Raipur, Chhattisgarh.
2. Collector Durg, District Durg-Chhattisgarh.
3. Joint Collector, Durg, District Durg ,chhattisgarh.
4. Sub Divisional Officer, Durg, District-Durg, Chhattisgarh.

**---- Respondents**


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| For Petitioner  | : | Mr. Tarun Dadsena, Advocate.         |
| For Respondents | : | Mr. A.S. Kachhawaha, Additional A.G. |

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**Hon'ble Shri Justice Manindra Mohan Shrivastava****Oral Order****12/07/2017**

Heard.

1. This petition has been filed by the petitioner aggrieved by long continuation of suspension since 18.01.2012 when he was placed under suspension.
2. Learned counsel for the petitioner argued that the petitioner has been kept under suspension for long 5 years on the ground of pendency of a criminal case and the criminal case has not come to an end till date for reasons not attributable to him.
3. On the other hand, learned State counsel submits that the

petitioner was placed under suspension vide order dated 18.01.2012 in view of filing of a charge-sheet against the petitioner by the Anti Corruption Bureau on the allegation of commission of offences under the Prevention of Corruption Act and since present is a matter relating to an allegation of corruption in public service, on account of pendency of a criminal case against the petitioner after framing of charge, he has been kept under suspension.

4. True, it is that present is a case where the petitioner is facing charges on the allegation of having committed offence under the Prevention of Corruption Act. However, in a recent judicial pronouncement in the case of **Ajay Kumar Choudhary v. Union of India through its Secretary and another, (2015) 7 SCC 291**, the Supreme Court has deprecated long continuation of a suspension and their lordships in the Supreme Court expressed their concern against long continuation of suspension by holding 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.”

5. Specifically dealing with cases like that of the petitioner, the Government has also issued a circular on 02.07.2012 which is placed on record as Annexure P/4 in which it has been clearly stated in para 5 that if the criminal case is not concluded within one year, the authority shall consider whether revocation of suspension is in administrative interest and order of reinstatement may be passed on proper reasons.
6. The authoritative pronouncement of the Honb'le Supreme Court in the case of Ajay Kumar Choudhary (supra) definitely takes precedence over the administrative policy. Even in a case like the present one, if an employee has remained under suspension for a long time, his case is required to be considered in the light of the principles laid down by the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary (supra). Therefore, in these circumstances, this petition, at this stage, is finally disposed off with the direction to respondent/Sub-Divisional Officer, Durg to consider revocation of suspension of the petitioner by taking into consideration the principles laid down by the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary (supra). The decision shall be taken within an outer limit of 45 days from the date of receipt of copy of this order.

Sd/-

**(Manindra Mohan Shrivastava)**  
**J U D G E**