

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 2346 of 2018

Hemant Kumar Joshi S/o Shri Jhumman Lal Joshi , Aged About 51 Years, R/o Village Arjunda, District Balod Chhattisgarh.

---Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of School Education, Mahanadi Bhawan, New Mantralaya, Naya Raipur Chhattisgarh.
2. Collector, Rajnandgaon And District Mission Director, Rajiv Gandhi Shiksha Mission, Rajnandgaon Chhattisgarh.
3. Chief Executive Officer, District Panchayat Rajnandgaon And Ex - Officio District Mission Director, Rajiv Gandhi Shiksha Mission, Rajnandgaon Chhattisgarh.
4. Block Education Officer, Rajnandgaon Chhattisgarh.

---Respondents

For petitioner	:	Shri Varun Sharma, Advocate.
For State	:	Shri Shashank Thakur, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/03/2018

1. The challenge in the present Writ Petition is to the order of suspension which has been issued on 15/12/2015.
2. The contention of the counsel for the petitioner is that, the respondent/State may reconsider the issue of keeping the petitioner in a prolong suspension in the light of judgment passed by the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary v. Union of India (through its Secretary) and Another [2015 7 SCC 291]**. It was further contended that, though the petitioner has been placed under

suspension from 15/12/2015 till date, the petitioner has not been paid with the subsistence allowance.

3. So far as the first part of the petition is concerned, this Court does not find any strong case made out by the counsel for the petitioner for interfering with the order of suspension at this juncture for the reason that, the petitioner has been placed under suspension in the light of proviso to rule 9 (1) of Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966.

4. The admitted fact is that, the petitioner has been involved in a criminal case in case No.86/2015 for the offence punishable under Section 420, 409, 467, 468 and 471/34 of I.P.C. The said criminal case is still pending consideration before the trial court.

5. Under the circumstances, the petitioner would remain under suspension as per the proviso to Section 9 (1) of the rules of 1966.

6. In the given facts i.e. the pendency of the criminal case against the petitioner, the judgment of Supreme Court in the case of Ajay Kumar Choudhary (Supra) would not be applicable.

7. However under no circumstances can the respondents deny the petitioner of subsistence allowance which is payable to him.

8. The subsistence allowance is provided for the sustenance and survival of the employee during the period that he has been placed under suspension. The petitioner as it is remained under suspension for a period of 2 years.

9. The respondents are therefore directed to ensure that the petitioner is paid subsistence allowance forthwith within a period of 60 days from the date the petitioner makes available the certified copy of this order to the competent authority.

10. The Writ Petition accordingly stands disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit