

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.3456 OF 2018**

Bitu Ram S/o Late Nanka Ram Aged About 47 Years R/o Village -
Kolhwa Gram Panchayat Kolhwa Tahsil - Wadrefnagar Police Station
Basantpur District Balrampur Ramanujganj Chhattisgarh.

...**Petitioner(s)**

Versus

1. State of Chhattisgarh Through Secretary Panchayat And Gramin Vikas Vibhog, Mahanadi Bhawan Mantralaya Capital Complex Naya Raipur District Raipur Chhattisgarh.
2. Chief Executive Officer , Zila Panchayat Balrampur District Balrampur - Ramanujganj Chhattisgarh.
3. The Collector Balrampur District Balrampur Ramanujganj Chhattisgarh.
4. Deputy Director (Panchayat) Balrampur Ramanujganj District Balrampur - Ramanujganj Chhattisgarh.
5. Janpad Panchayat , Wadrafnagar Through, Its Chief Executive Officer, Janpad Panchayat Wadrafnagar District Balrampur Ramanujganj Chhattisgarh.

... **Respondent(s)**

For Petitioner	:	Shri AK Yadav, Advocate.
For State	:	Ms. Sunita Jain, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

02/05/2018

1. The petitioner's grievance as ventilated through this petition is that the petitioner is continuing under suspension for the last about 2 years and the departmental enquiry has remained pending.
2. Though the petitioner has not challenged the order of suspension at its inception, its long continuance is arbitrary and liable to be revoked in view of the judicial pronouncement of the Supreme Court in the case of Ajay Kumar Choudhary Vs. Union of India through its Secretary & Anr.,(2015) 7 SCC 291, wherein the issue with regard to long continuance of suspension was considered and the practice of

keeping an employee under suspension for a long time was deprecated and following observations were made:-

“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 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.”

3. In view of the aforesaid authoritative pronouncement of the Supreme Court in the case of Ajay Kumar Choudhary (Supra), long continuance of suspension should not be resorted to, as a matter of practice.
4. According to petitioner neither the enquiry officer has been appointed nor charge-sheet was issued to the petitioner and that the departmental inquiry has not been concluded for the last two years, there is absolutely no justification for continuance of suspension order for such a long period. Respondent No. 4 is directed to consider the

case of the petitioner in the light of the decision of the Supreme Court as referred to above and pass necessary order, at the earliest.

5. The petition is accordingly finally disposed off.

Sd/-
(P. Sam Koshy)
Judge