

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4374 of 2018**

Vinod Kumar Yadav S/o Sarju Yadav Aged About 30 Years
Suspended Sub Engineer, Presently Posted At Nagar Panchayat
Pathariya, District- Mungeli, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through- The Secretary, Department Of Urban Administration And Development, Mahanadi Bhavan, New Raipur, District- Raipur, Chhattisgarh.
2. Director, Department, Of Urban Administration And Development, Mahanadi Bhavan, New Raipur, District- Raipur, Chhattisgarh.
3. Collector Mungeli, District- Mungeli, Chhattisgarh.
4. Chief Municipal Officer, Nagar Palik Nigam, Mungeli, District- Mungeli, Chhattisgarh.

----Respondents

For Petitioner	:	Mr. Hemant Kesharwani, Advocate
For State	:	Mr. Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****04/07/2018**

1. The challenge in the present writ petition is to the order (Annexure P/1) dated 28.05.2018.
2. Present is a second round of litigation. The earlier round of litigation was WPS No. 1336/2018, wherein the petitioner had challenged the action on the part of the respondents in continuing the petitioner under suspension for long. This Court considering the decision of the Hon'ble Supreme Court in the case of "***Ajay Kumar Choudhary v. Union of India through its Secretary and Anr.***" [2015 7 SCC 291] had disposed of the said writ petition with the following directions:

"2. Though, usually this Court would not be inclined to entertain the writ petition assailing the order of

suspension but in the aforesaid factual matrix which has been adduced, this Court is inclined to entertain the petition and the writ petition stands disposed off with direction that the petitioner shall prefer an appeal before respondent No.2 the Director, Department of Urban Administration and Development within a period of 15 days from today. The petitioner would also bring these facts to the notice of the appellant authority i.e. respondent No.2 and the appellate authority is directed to consider the case of the petitioner on its own merits and pass an order within a further period of 30 days from the date of receipt of the appeal by the petitioner. While deciding the petition, the appellate authority should also keep in mind the fact that the petitioner has not been given subsistence allowance and would also consider whether to continue with the suspension order or not.”

3. Subsequently, the respondents have now issued Annexure P/1 the impugned order dated 28.05.2018 wherein the authorities have not found it fit to revoke the suspension of the petitioner taking into consideration the large scale allegations which are leveled against the petitioner and the criminal case also lodged against him, in which he was also arrested and was in custody for a period between 26.04.2017 to 06.11.2017 i.e. for a period of more than 6 months. Further it has been reflected that the charge sheet also in the criminal case has been filed and the petitioner is being prosecuted in the said case for the offence under Sections 420, 468, 409 and 120B of the Indian Penal Code. Taking all these facts and circumstances, the authorities concerned have refused to revoke the suspension order and have further observed that the revocation part can be

reconsidered after one year from the date of filing of the charge sheet before the trial Court.

4. The contention of the petitioner is that the impugned order is not a reasoned order. The authorities ought to have given more reasons for not revoking the suspension and also should have given reasons, why they intend to continue the petitioner under suspension. He further submits that merely because he is being prosecuted in the criminal case should not be a ground for non-revocation of the suspension order. He further submits that the order of suspension in the instant case has been issued by the Collector, whereas the Collector is not the competent authority based upon the circular dated 21.01.1986.

5. On perusal of the record it is found that the respondents have passed the impugned order dated 28.05.2018 in a detailed manner and have considered the entire factual matrix against the petitioner and found that his track record is not so good and that he is already involved in a criminal case with serious charges of irregularities and misappropriations being committed by him in the course of the discharge of his duties. Moreover the petitioner was also arrested and put to jail for a period of more than 6 months and considering all these if in the opinion of the respondents it is not proper at this juncture to revoke the suspension order, the same cannot be said to be in any manner violative to the guidelines given by the Hon'ble Supreme Court in the case of ***"Ajay Kumar Choudhary"*** (*supra*). What was required was that the authorities to reconsider, whether it is any further necessary to continue the employee under suspension or not. If the authorities have considered that objectively and for the

reasons spelt out in the order they do not find it proper at this juncture to revoke the suspension order, the same cannot be found fault with and the impugned order cannot be held to be bad in law.

6. So far as the competency of the Collector is concerned, the Rule 9 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1996 specifically envisages that a person can be placed under suspension, even by an officer subordinate to the appointing authority. Moreover there is also a notification of the State Government delegating the power on the Collector to place an employee of Class-III & Class-IV category under suspension. Thus the ground raised by the petitioner, so far as the competency of the Collector is concerned, also is not tenable.
7. The writ petition thus being devoid of merit deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge