

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 7963 of 2018

Dinanath Singh S/o Shri Ramsewak Singh Aged About 26 Years R/o Village Jarhitoia, Post Salka, District- Surguja, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Principal Secretary Panchayat And Rural Development Department, Mahanadi Bhawan, New Raipur, Chhattisgarh.
2. The Collector Surguja District- Surguja, Chhattisgarh.
3. Sub-Divisional Officer (Revenue) Udaipur, District- Surguja, Chhattisgarh.
4. The Jila Panchayat Surguja Through The Chief Executive Officer Surguja, Chhattisgarh.

---Respondents

For Petitioner	:	Mr. Abhishek Pandey, Advocate
For State	:	Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04/12/2018

1. The challenge in the present writ petition is to the order Annexure P/1 dated 23.08.2018, which is an order of suspension inflicted upon the petitioner.
2. Since the suspension order was passed on 23.08.2018, though more than 3 months have lapsed, till date the charge sheet has not been issued to the petitioner, nor does the department seem to be in the mood of initiating departmental proceedings against him.
3. Given the said facts, the order of suspension would stand automatically revoked under the provisions of the Rules governing the field.
4. The State counsel however opposing the petition submits that it is an appealable order, the petitioner having not preferred an appeal, cannot

now be permitted to challenge the same by filing a writ petition directly to this Court.

5. Be that as it may, from the undisputed facts, that are emerging from the pleadings, the petitioner seems to have been placed under suspension on 23.08.2018, three months period get lapsed on 23.11.2018. Though more than 90 days have passed, the petitioner has till date not been served with a charge sheet.
6. At this juncture, it would be relevant to refer to the recent decision of the Hon'ble Supreme Court in the case of ***“Ajay Kumar Choudhary v. Union of India through its Secretary and Anr.”*** reported in ***[2015 (7) SCC 291]***, wherein in paragraph No.21 the Hon'ble Supreme Court had in very specific terms held as under:-

“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.”

7. Given the aforesaid findings of the Hon'ble Supreme Court, this Court is of the opinion that ends of justice would serve if the respondent No.4 is directed to reconsider the case of the petitioner and further consider, whether it is necessary to continue the petitioner under suspension any further or not and also to take a decision whether any departmental proceedings is being initiated against the petitioner or not?
8. Let this exercise be done by the respondent No.4 within a period of 60 days from the date of receipt of copy of this order.

9. It shall be the responsibility of the petitioner to appraise the respondent No.4, so far as the order passed by this Court is concerned.

10. With the aforesaid observations, the present writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved