

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**Writ Petition (S) No. 523 of 2019**

R. K. Sharma S/o Late Shri R. S. Sharma, Aged About 58 Years,  
Occupation - Assistant Engineer E/M Public Health Engineering  
Mahasamund Division, At Present (Suspended) Sub Division –  
Jagdalpur, P.S. Jagdalpur, District Jagdalpur, Chhattisgarh

**---- Petitioner**

**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Public Health Engineering, Mantralaya, Mahanadi Bhawan, Naya Raipur, P.S. - Abhanpur, District Raipur Chhattisgarh
2. Engineer In Chief, Public Health Engineering Raipur, Office Of Engineer In Chief Raipur, P.S. Raipur, District Raipur, Chhattisgarh

**---- Respondents**

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| For Petitioner | : | Ms. Deepali Pandey, Advocate |
| For State      | : | Mr. Sameer Behar, P.L.       |

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**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**25/01/2019**

1. The grievance of the petitioner is that the petitioner has been placed under suspension on 15.10.2018. Though more than 3 months have lapsed, the Department has not issued any charge sheet for a departmental enquiry against the petitioner and therefore, the order of suspension should be revoked on this ground.
2. The contention of the counsel for the petitioner is that in the alleged criminal case that is levelled against the petitioner it is only the charge sheet which was filed on 09.08.2018 which led to the petitioner being placed under suspension. According to the petitioner, there is no further

necessity for keeping the petitioner under suspension as there is no likelihood of the petitioner in any manner affecting the prosecution case adversely neither is there any possibility of the petitioner tampering with the record or evidence necessary for the prosecution case. Thus, the petitioner's case should be reconsidered by the authorities to the extent as to whether there is any further necessity for continuing the petitioner under suspension. Counsel for the petitioner relied upon the case of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary Vs. Union of India & Ors., (2015) 7 SCC 291. The petitioner also relied upon a judgment of this Court in the case of Dayanand Rawani Vs. State of Chhattisgarh and others decided on 28.01.2016 in WPS 3344 of 2014.

3. Needless to mention at this juncture that the proviso to Rule 9 (1) (b) of Chhattisgarh Civil Service (Classification, Control and Appeal) Rule clearly stipulates that a government servant shall invariably be placed under suspension when a challan for a criminal offence involving corruption or other moral turpitude is filed against him. The petitioner in the instant case fairly admits that he has been served with a charge sheet for criminal offence under the prevention of corruption Act. The charge was filed on 09.08.2018. The case is pending consideration before the Court of Special Judge (PC Act), Raipur.
4. Nonetheless what is required to be considered is that the petitioner has already undergone suspension for a period of more than three months. The Supreme Court in the case of Ajay Choudhary (supra) has in very categorical term held that a person who is facing a criminal case should not be placed under suspension for a long period as no fruitful purpose would be served in keeping the petitioner under suspension particularly when the criminal case gets prolonged for no fault of the employee.

5. In the given factual matrix of the case, this Court is of the opinion that ends of justice would serve if the writ petition is disposed of with a direction to respondent no.1 to reconsider the case of the petitioner. While reconsidering the case of the petitioner, the authorities may consider whether there is any further necessity in keeping the petitioner under suspension. Let the petitioner file a detailed representation in this regard before respondent no.1 within a period of 2 weeks from today and on such representation being received by respondent no.1, the same in turn be decided in the light of the judgment of the Supreme Court in the case of Ajay Choudhary (supra) particularly dealing with the issue as to the necessity of keeping the petitioner under further suspension. Let this exercise be completed by respondent no.1 within a period of 60 days from the date of receipt of representation which the petitioner shall file.
6. With the aforesaid observation, the writ petition stands disposed of.

**Sd/-**  
**(P. Sam Koshy)**  
**Judge**