

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1406 of 2019**

Savita Deewan W/o Shri Dhanendra Deewan, Aged About 39 Years,
R/o Sector-29, Block No.31, House No. 303, New Raipur, Atal Nagar,
Police Station And Post Rakhi, District- Raipur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Home/Police, Mahanadi Bhawan, Mantralaya, Police Station And Post-Rakhi, Atal Nagar, Raipur, District- Raipur, Chhattisgarh
2. Director General Of Police (DGP) Police Head Quarter (PHQ), Near Mahanadi Bhawan, Mantralaya, P.S. And Post- Rakhi, Atal Nagar, Raipur, District- Raipur, Chhattisgarh
3. Additional Director General Of Police (ADGP) Administration, Police Head Quarter (PHQ), Near Mahanadi Bhawan, Mantralaya, P.S. And Post- Rakhi, Atal Nagar, Raipur, District- Raipur, Chhattisgarh
4. Deputy Inspector General Of Police (DIGP) Administration, Police Head Quarter (PHQ), Near Mahanadi Bhawan, Mantralaya, P.S. And Post- Rakhi, Atal Nagar, Raipur, District- Raipur, Chhattisgarh

----Respondents

For Petitioner	:	Mr. Abhishek Pandey and Mr. Santosh Ku. Pandey, Advocates
For State	:	Mr. Saleem Kazi, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****06/03/2019**

1. The limited prayer, which the petitioner makes, is that the present petitioner has been placed under suspension since 03.04.2018 and the departmental inquiry initiated also has not progressed any further beyond the issuance of charge sheet which too was issued on 04.05.2018.

2. Counsel for the petitioner submits that the case of the petitioner may be sent to the competent authority, who may reconsider the case of the petitioner whether there is a necessity for further continuing her under suspension or not in the light of 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, wherein in paragraph No.21 the Hon'ble Supreme Court has 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. 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 the 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. Counsel for the petitioner, at this juncture, submits that subsequent to the issuance of charge sheet, an Enquiry Officer was also appointed who had proceeded with the enquiry and during the enquiry, the prosecution witnesses examined have in fact not supported the stand of the Management and have deposed in favour of the petitioner. However, the Enquiry Officer till date has not submitted the enquiry report neither has the Department taken any further step and therefore, the petitioner's case may be reconsidered by the department as to whether it would be necessary to continue the petitioner under suspension in the aforegiven factual matrix of the case.
4. In the given factual matrix of the case, this Court is not inclined to keep the petition pending and this writ petition stands disposed of with a direction to respondent No.3 to reconsider the case of the petitioner in the light of judgment of the Hon'ble Supreme Court in the case of “***Ajay Kumar Choudhary***” (supra) and pass an appropriate order within a period of two months from the date of production of the copy of this order. In the event, the authorities concerned is not inclined to revoke the suspension order, the authorities would pass a speaking order giving specific reasons which compel them to continue the suspension.
5. The writ petition thus stands disposed off.

Sd/-
(P. Sam Koshy)
Judge