

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 3572 of 2019**

Avinash Shrivastava S/o Shri B.R. Shrivastava Aged About 37 Years R/o House No. 11, Ashray Parisar Colony, Bannak Chowk, Sirgitti, Bilaspur, Police Station Sirgitti, Tahsil And District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, St / Sc Development Department, Mahanadi Bhawan, Mantralaya, Police Station And Post Rakhi, Atal Nagar, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Commissioner Office Of Commissioner, St / Sc Development Department Indrawati Bhawan, Police Station And Post Rakhi, Atal Nagar, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Abhishek Pandey, Advocate
For State	:	Mr. Rahul Mishra, Dy. GA

Hon'ble Shri Justice P. Sam Koshy**Order on Board****27/06/2019**

1. The petitioner in the present writ petition is claiming for two reliefs. Firstly, the respondent authorities may reconsider whether there is any further necessity for the petitioner to be continued under suspension. Second relief sought for is to direct the respondent to provide the petitioner all those documents which the respondent have taken to be part of the charge-sheet and for which the list of documents have also been given to the petitioner along with the charge-sheet.

2. On a specific query being put to the counsel for the petitioner, he makes a submission as per the instruction that the enquiry has till date not been started in as much as even the enquiry officer has not been appointed. He further submits that the petitioner as of now already remained under suspension for a period of more than one year and since the department itself is prolonging the disciplinary proceeding initiated against the petitioner, there is no reason for the petitioner to be continued under suspension and the same should be reconsidered. Counsel for the petitioner relied upon the judgment of the Supreme Court in the case of **Ajay Kumar Choudhary v. Union of India through its Secretary and Anr.** [2015 (7) SCC 291].
3. So far as the relief of consideration of revocation of suspension is concerned, this Court is of the opinion that demand made by the petitioner seems to be fair and reasonable in as much as the petitioner has remained under suspension by now for a period of one year. Though, the charge-sheet was issued as early as on 06.09.2018, in spite of about 9 months have passed, the respondents have till date not even appointed an enquiry officer.
4. Under the circumstances, keeping in view the judgment of the Supreme Court in the case of **Ajay Kumar Choudhary(Supra)** , the respondent No. 1 is directed to reconsider the case of the petitioner so far as his request of revocation of suspension is concerned and while deciding the same authorities would also deal with the issue as to what is the necessity for continuing the petitioner under suspension.
5. Now coming on the issue of non granting of documents which have been cited along with the charge-sheet, this Court is of the opinion that law in this regard is well settled that delinquent employee would be

entitled for all those documents which the management would be using against the delinquent employee in the departmental enquiry. Though, the respondents have cited various documents in support of all the charges but it appears none of those documents have been provided to the petitioner or atleast it is not clear from the charge-sheet which is enclosed along with the petition.

6. Under the legal position as it stands the delinquent employee i.e. the petitioner in the present case would be entitled for all those documents which the department would use against the petitioner for proving the charges in the enquiry. The respondents are therefore directed that in the event if the department thinks of proceeding further with the departmental proceeding contemplated, the authorities would provide the petitioner with all those documents which the department would be producing before the enquiry officer as documents against the petitioner to establish the charges.
7. With the aforesaid observation, the present writ petition stands accordingly disposed off.

Sd/-
(P. Sam Koshy)
Judge

Rohit