

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1349 of 2020**

Ramesh Kumar Tandan S/o Late Shri Kartikram Tandan Aged About
42 Years R/o Village Bhurki, District Bemetara Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Tribal Development Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh
2. Commissioner Tribal Development Department, Indrawat Bhawan, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh
3. Asstt. Commissioner Tribal Development Department, Bemetara, District Bemetara Chhattisgarh
4. Collector Bemetara, District Bemetara Chhattisgarh

---- Respondents

For Petitioner	:	Ms. Meena Shastri, Advocate
For State	:	Mr. Mateen Siddiqui, Dy. AG

Hon'ble Shri Justice P. Sam Koshy
Order on Board

04/12/2020

1. The challenge in the present writ petition is to the order of suspension dated 12.02.2020.
2. There is specific averment made by the counsel for the petitioner that though the petitioner has been placed under suspension on 12.02.2020 and since about 10 months have passed, no charge-

sheet even has been issued to the petitioner, as such the order of suspension deserves to be revoked.

3. 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]**. It would be trite at this juncture to refer to Paragraph 21 of the said judgment wherein Hon'ble Supreme Court in respect of prolonged suspension have 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/Chargesheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Chargesheet 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 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.”

4. Taking into consideration the decision of the Supreme Court in the case of **Ajay Kumar Choudhary (Supra)** and also taking note of the

fact that in spite of 10 months having passed the petitioner has not been even issued with a charge-sheet following the suspension. The order of suspension requires reconsideration by the respondents.

5. Respondent No.4 is directed to reconsider the case of the petitioner in the light of the judgment of the Supreme Court in the case of **Ajay Kumar Chaudhary (Supra)** referred to in preceding paragraphs and take an appropriate decision at the earliest preferably within a period of 30 days from the date of receipt of copy of this order.
6. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit