NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1632 of 2020

- Alakhram Andilya S/o Shri Thakur Ram Aged About 58 Years Agriculture Development Officer, Block Premnagar, R/o Village Umeshwarpur, Tahsil Premnagar, District Surajpur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Agriculture Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
2. Director, Agriculture Department, Indrawati Bhawan, Atal Nagar, Naya Raipur, Chhattisgarh, Raipur Chhattisgarh
3. Joint Director, Agriculture Division, Surguja Ambikapur District Surguja Chhattisgarh
4. Deputy Director, Agriculture, District Surajpur Chhattisgarh
5. Senior Agriculture Development Officer, Block Premnagar, District Surajpur Chhattisgarh

---- Respondents

For Petitioner : Ms. Meena Shastri, Advocate

For Respondents/State : Ms. Sunita Jain, GA

Hon'ble Shri Justice Goutam Bhaduri

Order

02/11/2020

1. Heard.

2. The present petition is against the order dated 04.11.2019 (Annexure P-1) whereby the petitioner was suspended.

3. It is contended that till date no charge-sheet has been served to the petitioner and the suspension has not been extended by any speaking order. It is

submitted that the suspension cannot be therefore, continued for the indefinite period in view of the law laid down by the Supreme Court in the case of ***Ajay Kumar Choudhary Vs. Union of India through its Secretary and another {(2015) 7 SCC 291}.***

4. Per contra, learned State counsel would submit that the order impugned is appealable, therefore, the present petition would not be maintainable.

5. Since the decision is with respect to the suspension of the petitioner, therefore, the law laid down by the Supreme Court in the case of ***Ajay Kumar Choudhary (supra)*** would be relevant and relevant para 21 of the judgment passed in ***Ajay Kumar Choudhary (supra),*** is quoted hereinbelow:-

> **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 person concerned 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.

6. In the present case nothing is on record to show that the order of suspension was extended and also that the charge-sheet has been served to the petitioner, therefore, in view of the law laid down by the Supreme Court in ***Ajay Kumar Choudhary (supra),*** it is directed that the respondents shall pass an order in respect of the revocation of suspension of the petitioner within a period of 30 days from the date of receipt of the order.

7. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu