

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2633 of 2020

Smt. Tika Bai Divya, W/o. Anand Mahilange, Aged About 37 Years,
Occupation - Assistant Teacher (Municipal Corporation), Primary
School, Lalghat, Block And District - Korba Chhattisgarh. Present
Address - Satnam Nagar, Police Station - Balco Nagar, District -
Korba Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through - Secretary, Urban Administration
And Development Department, Mahanadi Bhawan, Mantralaya,
Capital Complex, Atal Nagar, Nawa Raipur, District - Raipur
Chhattisgarh.
2. Collector, Korba, District - Korba Chhattisgarh.
3. District Education Officer, Korba, District - Korba Chhattisgarh.
4. Commissioner, Municipal Corporation, Saket Bhawan, I.T.I. Chowk,
Rampur, Korba District - Korba Chhattisgarh.
5. Block Education Officer, Korba, Block And District - Korba
Chhattisgarh.
6. Head Master, A.J.K. Primary School, Lalghat, Block And District -
Korba Chhattisgarh.

----Respondents

For Petitioner	:	Shri Dharmesh Shrivastava, Advocate.
For State/Respondents No.1 to 3, 5 & 6.	:	Shri N. Naha Roy, Advocate.
For Respondent No.4	:	Shri Pankaj Agrawal, Advocate

Hon'ble Shri Justice Goutam Bhaduri

ORDER

10/07/2020

Heard.

1. Learned counsel for the petitioner submits that only grievance of
the petitioner is that the petitioner has been suspended on 19/02/2020 and
till today neither charge sheet has been supplied nor any further action
have been taken on the suspension. He submits that in view of the law
laid down in case of **Ajay Kumar Choudhary Vs. Union of India (UOI) &
Ors.** reported in **LAWS (SC) 2015 2 57** wherein it has been held that
suspension cannot be for the indefinite period and refers to para 14 which

reads as under:-

“14. 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.”

2. Learned counsel for the petitioner submits that the petitioner may be given liberty to file a representation before the concerned authority which may be directed to be decided.

3. Considering the fact that the petitioner was suspended on 19.02.2020 and as on today as has been averred charge sheet has not been given, considering the law laid down in case of **Ajay Kumar Choudhary** (supra) and the prayer as has been made, it is directed that in case the petitioner makes a representation within a period of 3 weeks, the same shall be decided within a period of 45 days from the date of receipt of the representation.

4. With such observation, the petition stands disposed of.

Sd/-
(Goutam Bhaduri)
JUDGE