

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3181 of 2020**

- Bharat Lal Sahu S/o Late Shivcharan Lal Sahu Aged About 61 Years R/o B-47, Shivram Ashirwad Colony, Nahariyababa Mandir Road, Janjgir , District Janjgir Champa Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary , Health And Family Welfare Department , Mantralay, Mahanadi Bhawan, Atal Nagar , District Raipur , Chhattisgarh
2. Under Secretary Health And Family Welfare Department , Mantralay, Mahanadi Bhawan, Atal Nagar, District Raipur , Chhattisgarh
3. Director Health Services Indrawati Bhawan, Atal Nagar , District Raipur , Chhattisgarh
4. Divisional Joint Director Health Services, Bilaspur , Chhattisgarh , Regional Family Welfare Training Centre, Nutan Chowk , Bilaspur , District Bilaspur , Chhattisgarh
5. Chief Medical Officer Janjgir , District Janjgir Champa, Chhattisgarh

---- Respondents

For Petitioner : Shri Ashutosh Trivedi, Advocate

For Respondents/State : Shri Amrito Das, Addl. AG

Hon'ble Shri Justice Goutam Bhaduri**Order****21/09/2020**

1. Heard.
2. The case of the petitioner is that the petitioner was suspended by order dated 27.04.2020 and by such order the petitioner was suspended with effect from

18.03.2020 for the offence under the Prevention of Corruption Act, 1988 (hereinafter referred to as 'the Act, 1988').

3. Learned counsel for the petitioner would submit that till today though 90 days have been passed but the suspension has not been revoked. He would further submit that 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} when the suspension order has not been extended, the suspension cannot be continued even the memorandum of charges/charge-sheet is served to the petitioner. He would further submit that in respect of the petitioner neither the charge-sheet in the criminal case nor any departmental charge-sheet has been served to the petitioner, therefore, in view of the para 21 of the judgment passed in the case of ***Ajay Kumar Choudhary (supra)*** the suspension cannot be continued.
4. Learned State counsel would submit that the State will decide the representation filed by the petitioner.
5. The Supreme Court in the case of ***Ajay Kumar Choudhary (supra)*** at para 21 has held thus:-

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. Considering the language of the suspension order dated 27.04.2020, which speaks that the petitioner was suspended from 18.03.2020 and taking into the submission made by the petitioner that neither the charge-sheet in the criminal case has been filed nor memorandum of charges has been served to him and no orders have been passed for extension of suspension, it is directed that the State shall pass the order strictly in conformity with para 21 of the judgment passed in ***Ajay Kumar Choudhary (supra)*** within a period of 30 days from today.
7. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu