

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3746 of 2020**

- Hotam Singh Mourya S/o Deviram Mourya Aged About 48 Years
R/o District Jail, Jashpur, District Jashpur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Home (Police) Department, Mahanadi Bhawan, Mantralaya, Nawa Raipur Chhattisgarh
2. The Director General Jail And Corrective Services, Jail Headquarter, Chhattisgarh, Raipur Chhattisgarh.
3. The Superintendent Of Jail Central Jail, Ambikapur, District Surguja Chhattisgarh
4. The Assistant Superintendent Of Jail District Jail, Baikunthpur, District Korla Chhattisgarh

---- Respondents

For Petitioner : Mr. Goutam Khetarpal, Advocate

For State : Ms. Akansha Jain, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order****22/09/2020**

Heard.

1. Learned counsel for the petitioner submits that the petitioner was appointed as Wardner then promoted to Head Wardner and was posted at Jashpur. His services were being availed for Accountant

too. During such period, on account of operation of computer inadvertently, some vendor license registration was generated. Consequently, he was suspended on 17.10.2018 and subsequently was served with chargesheet. He submits that correspondence in this writ petition shows that the petitioner has not gained any financial benefit out of such registration. He further submits that the petitioner is still under suspension and the suspension has not been revoked yet by any specific order therefore the respondent authorities may be directed to pass an order pursuant to the law laid down in the case of ***Ajay Kumar Choudhary Vs. Union of India through its Secretary and another {(2015) 7 SCC 291}***. Reference is made to para 21 of the judgment passed in ***Ajay Kumar Choudhary (supra)***, which reads 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 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.

2. Learned State counsel would submit that they will take decision in accordance with the law laid down in the case of ***Ajay Kumar Choudhary (supra)*** specially para 21 thereof.
3. In view of the facts that the petitioner was suspended on 17.10.2018 and the chargesheet has been served to him and no reasoned order has been passed for revocation of his suspension till date, therefore the authorities are directed to pass an order strictly in conformity with the para 21 of the judgment passed in ***Ajay Kumar Choudhary (supra)*** with respect to the suspension of the petitioner within a further period of 30 days from the date of receipt of copy of this order.
4. With the aforesaid direction/ observation, the writ petition stands disposed of.

Sd/-

(Goutam Bhaduri)
Judge