

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3866 of 2020**

- Ganesh Ram Yadav S/o. Shri Karmu Ram Yadav, Aged About 59 Years Working As Assistant Grade-2 And Posted At Municipal Council Sakti, District Janjgir Champa (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Urban Administration And Development, Mahanadi Bhawan, Mantralaya New Raipur, District Raipur (Chhattisgarh)
2. Director, Office Of Urban Administration Atal Nagar, Naya Raipur, District Raipur (Chhattisgarh)

---- Respondents

For Petitioner : Shri Ajay Shrivastava, Advocate

For Respondents/ State : Ms. Akanksha Jain, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order****05.10.2020**

1. Heard.
2. The petitioner has filed this petition seeking a direction to respondent to revoke the suspension order.
3. Learned counsel for the petitioner would submit that the petitioner was suspended on 07.11.2019. It is contended thereafter he was served with charge sheet on 10.12.2019, however the suspension was not extended at the time of service of the charge sheet, therefore the suspension cannot be continued.
4. He further placed his reliance on *Ajay Kumar Choudhary Vs. Union of India* **{{(2015) 7 SCC 291}}** and submit that since at the time of service of the charge sheet suspension order was not extended by reasoned order the same cannot be continued. He further refers 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."

5. Learned State counsel submits that in view of the aforesaid decision of the Supreme Court, the case of the petitioner would require consideration by the authority, who has passed the suspension order i.e. Respondent No. 1.
6. Considering the aforesaid submission, at this stage, this petition is disposed off with a direction to respondent No.1 to consider revocation of petitioner's

suspension in view of the judicial pronouncement of the Supreme Court in the case of **Ajay Kumar Choudhary (supra)** , direction under which have been reproduced herein above. Let a decision be taken within a period of three weeks and suitable orders in accordance with law be passed by respondent No.1.

Sd/-

(Goutam Bhaduri)
Judge

Jyoti