

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4072 of 2020**

- Panchram Verma S/o Late Baliram Verma, R/o Subhash Ward, Bhatapara Ward No. 4, District Balodabazar Bhatapara Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Veterinary Services, Mahanadi Bhawan, Mantralaya, New Raipur Chhattisgarh
2. The Director, Veterinary Services, Atal Nagar, District Raipur Chhattisgarh
3. The Deputy Director, Veterinary Services, District Balodabazar Bhatapara Chhattisgarh

---- Respondents

For Petitioner : Shri Vikash A. Shrivastava, Advocate

For Respondents/State : Ms. Richa Shukla, Dy. GA

Hon'ble Shri Justice Goutam Bhaduri**Order****13/10/2020**

1. Heard.
2. Learned counsel for the petitioner would submit that the petitioner was suspended by order dated 11.01.2019, thereafter, neither the departmental enquiry has commenced nor any charge-sheet has been served. He would further submit that therefore, 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}*** since the suspension has not been extended by an speaking order, the suspension needs to be revoked.

3. Per contra, learned State counsel opposes the arguments advanced by learned counsel for the petitioner.
4. Considering the issue involved, the law laid down by the Supreme Court in the case of **Ajay Kumar Choudhary (supra)** para 20 & 21 thereof would be relevant which are reproduced here in below:-

“20. It will be useful to recall that prior to 1973 an accused could be detained for continuous and consecutive periods of 15 days, albeit, after judicial scrutiny and supervision. The Code of Criminal Procedure, 1973 contains a new proviso which has the effect of circumscribing the power of the Magistrate to authorise detention of an accused person beyond period of 90 days where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than 10 years, and beyond a period of 60 days where the investigation relates to any other offence. Drawing support from the observations contained of the Division Bench in Raghbir Singh vs. State of Bihar , 1986 (4) SCC 481, and more so of the Constitution Bench in Abdul Rehman Antulay V. R.S. Nayak, 1992 (1) SCC 225, we are spurred to extrapolate the quintessence of the proviso of Section 167(2) of the Cr.P.C. 1973 to moderate Suspension Orders in cases of departmental/disciplinary inquiries also. It seems to us that if Parliament considered it necessary that a person be released from incarceration after the expiry of 90 days even though accused of commission of the most heinous crimes, a fortiori suspension should not be continued after the expiry of the similar period especially when a Memorandum of Charges/Charge-sheet has not been served on the suspended person. It is true that the proviso to Section 167(2) Cr.P.C. postulates personal freedom, but respect and preservation of human dignity as well as the right to a speedy trial should also be placed on the same pedestal.

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/Charge-sheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Charge-sheet 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.”

5. Since it appears that the suspension of the petitioner has not been revoked without passing any speaking order and as on date the considerable period has passed as the suspension is dated 11.01.2019, therefore, the respondents are directed to pass an order strictly in accordance with the law laid down by the Supreme Court in the case of **Ajay Kumar Choudhary (supra)** in respect of the revocation of the suspension within a period of 30 days from the date of receipt of the copy of this order.

Sd/-

Goutam Bhaduri
Judge

Ashu