

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4053 of 2020**

- Dr. Avinash Khare S/o Late R. P. Khare, Aged About 42 Years R/o A-46, Dream City, Khamtarai Road, Sarakanda, Bilaspur, District Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Health And Family Welfare Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, District Raipur, Chhattisgarh.
2. Under Secretary, Health And Family Welfare Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, District Raipur, Chhattisgarh
3. Director, Health Services, Indrawati Bhawan, Atal Nagar, District Raipur, Chhattisgarh
4. Chief Medical And Health Officer, Bilaspur, District Bilaspur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Virendra Verma, Advocate
For State	:	Ms. Akanksha Jain, Dy. G.A.

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 29.05.2019 (Annexure P-1) w.e.f. 29.04.2019 i.e. from the date of his arrest. He further submits that despite period of 3 months have passed and charge sheet in the criminal case has been served but no reasoned order in respect of the suspension of the petitioner has been passed nor any charge sheet for departmental enquiry has been served. Therefore, continuation of suspension would be contrary to the principles as laid down in *Ajay Kumar Choudhary Vs. Union of India through its Secretary and another* {(2015) 7 SCC 291}.
3. He further refers to to para 21 of the judgment passed in *Ajay Kumar*

Choudhary Vs. Union of India through its Secretary and another {(2015) 7 SCC 291} 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."

4. Learned State counsel opposes the argument.

5. In the present case, there is nothing on record to show that order for extension of suspension was passed despite the fact that charges have been framed and no charge sheet has been supplied for any departmental enquiry. Therefore, in view of the principle laid down in the case of ***Ajay Kumar Choudhary (supra)***, it is directed that the respondents shall decide the representation of the petitioner (Annexure P-2) within a period of 30 days from the date of receipt of a copy of this order.

6. With the above direction/ observation, the writ petition stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge

Jyoti