

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4142 of 2020**

- Ramesh Dubey, S/o Late Hethram Ram Dubey, aged about 59 years, R/o Sirgitti, Bilaspur, District Bilaspur (C.G.)

---Petitioner**Versus**

- 1.State of Chhattisgarh, Through Secretary, Urban Administration and Development Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, Nawa Raipur, District Raipur (C.G.)
- 2.Director, Urban Administration and Development, Directorate, Atal Nagar, Raipur, District Raipur (C.G.)
- 3.Collector, Kanker, District North Bastar- Kanker (C.G.)
- 4.Commissioner, Tribal Welfare, Block 4D, Ground Floor, Indrawati Bhawan, Atal Nagar, Raipur, Chhattisgarh.

--- Respondents

For Petitioner :- Mr. Manoj Paranjape, Advocate
For State :- Ms. Richa Shukla, Dy. A.G.

Hon'ble Shri Justice Goutam Bhaduri**Order****16/10/2020**

1. Heard.

2.Learned counsel for the petitioner would submit that the petitioner, who holds the substantive post

of Chief Municipal Officer, posted at Nagar Panchayat, Antagarh District Kanker. It is stated during the COVID-19 Lockdown, on 02.04.2020 he was absent from 10.00 AM to 6.30 PM as he went for official work after informing the President of the Nagar Panchayat Antagarh, District Kanker to procure and purchase the goods which are related for the prevention from COVID-19 pandemic i.e. Phenyl, Bleaching Powder, Sanitizer etc. It is stated however on that ground, the petitioner was suspended on 02.04.2020. Thereafter, the charge-sheet has been served but the suspension order was not revoked and the suspension was not extended by speaking order within the stipulated period of 90 days.

3. He further submits that it would be against the law laid down in case of ***Ajay Kumar Chowdhary Vs. Union of India though its Secretary and Another*** {(2015) 7 SCC 291). Learned counsel for the petitioner further submits that considering the case of the petitioner and the nature of allegation, the Collector on 03.06.2020 vide Annexure P/2 has also recommended for revocation of the suspension order of the petitioner. However, the same is not repealed and nothing has transpired.

4. Learned State Counsel would submit that the State would decide the case of the petitioner with respect to his suspension.

5. In Case of **Ajay Chowdhary (Supra)** the period of continuation of suspension was considered and guidelines were, the relevant para is quoted hereinunder:-

"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 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. In the present case, it appears that the petitioner though was suspended on 02.04.2020, considerable period has passed and the fact reveals that the suspension order was not further extended by speaking order. Despite the fact, charge-sheet was submitted.

7. In view of the facts pursuant to the law laid down in the case of **Ajay Kumar Choudhary (supra)**, the respondents are directed to pass an order, touching the revocation of the suspension order within a period of 30 days from the date of receipt of a copy of this order.

8. With the aforesaid observation, the petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge

Vijay Sahu