

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 4834 of 2020

1. Munnalal Dewangan S/o Shri Kanhaiya Lal Dewangan, Aged About 42 Years R/o Dewangan Mohalla, Champa, District Janjgir Champa Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through Secretary, Urban Administration And Development Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.
2. Director, Urban Administration And Development, Directorate, Atal Nagar, Raipur, District Raipur Chhattisgarh.
3. Collector, Janjgir Champa, District Janjgir Champa Chhattisgarh.

---Respondents

For Petitioner	:	Shri Manoj Paranjpe, Advocate.
For State	:	Shri Rahul Jha, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08.12.2020.

1. The grievance of the petitioner in the present writ petition is the order of suspension that was passed on 18.07.2020.
2. The petitioner substantively is an employee holding the post of Revenue Inspector. That, the service conditions of the Revenue Inspector are governed under the Chhattisgarh Employees Recruitment and Conditions of Service Rules, 1968 (in short, the Rules, 1968). Vide the order dated 18.02.2019 the petitioner was made the in-charge Chief Municipal Officer, Nagar Panchayat, Chandrapur. While discharging the duties as in-charge Chief Municipal Officer an FIR has been lodged against the petitioner for the offence under Section 354 IPC and where the complainant is the wife of the another employee working under the petitioner at Nagar Panchayat Chandrapur who was chargesheeted by the petitioner for an alleged misconduct and against whom an FIR was also lodged.

- 3.** The contention of the petitioner is that the wife of the said chargesheeted employee has subsequently filed an FIR against the petitioner falsely implicating him in a criminal case. He further submits that the petitioner has already got anticipatory bail in the said criminal case. It is the further contention of the petitioner that though FIR was lodged as early as on 13.07.2020 till date charge sheet has not been filed in the said criminal case. He further submits that even more than 5 months time have lapsed from the date of suspension till date even the department has also not issued any show cause notice or charge sheet to the petitioner subjecting him in disciplinary proceedings.
- 4.** The contention of the petitioner is three folds. The first contention is that the order of suspension has been issued invoking the provisions of the Chhattisgarh State Municipal Service (Executive) Rules, 1973 (in short, the Rules, 1973). According to petitioner, this rule would not be applicable upon the petitioner for the reason that he does not fall under the said services and he is substantively a Revenue Inspector and his service conditions are regulated under the Rules, 1968. The second contention of the petitioner is that, merely because an FIR has been lodged would not call him for being placed under suspension. For this context, the counsel for the petitioner relies upon a judgment of MP High Court in case of Balram Singh Vs. Municipal Council, Dhamtari, 1992 MPLJ 194. The third contention of the petitioner is that since more than five months have lapsed the petitioner has not been subjected to any disciplinary proceeding, inasmuch as, no show cause notice, no charge sheet has been issued and also the fact that there is no charge sheet filed in the criminal case, the order of suspension issued against the petitioner needs to be reconsidered keeping in view the judgment of Supreme Court in case

of Ajay Kumar Choudhary Vs. Union of India & Others, 2015(7)SCC 291.

In the said case the Supreme Court has specifically directed all the employers to reconsider the cases of all those employees who have placed under suspension for a period of more than three months.

5. Given the aforesaid contentions that the petitioner has made particularly taking into consideration the two major facts firstly being that the Rules of 1973 placing the petitioner under suspension not being applicable and secondly the fact that in the light of the judgment of the Supreme Court in case of Ajay Choudhary (Supra) the order of suspension needs reconsideration, this court at this juncture would like to dispose of the writ petition with a specific direction to the respondent No.1 to look into the aspect and grievance of the petitioner and to take appropriate decision keeping the aforesaid contentions which the petitioner has raised. Let the respondent No.1 take in to consideration the aforesaid observations and pass a fresh order at the earliest preferably within a period of 45 days from the date of receipt of copy of this order.
6. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge