

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5272 of 2020**

Gorelal Thakur, S/o Late Shri R. S. Thakur, Aged About 60 Years R/o.
Shivesh Sadan, Main Road, Kota, Raipur, Police Station - Saraswati Nagar,
Tahsil and District - Raipur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through Its Secretary, Department Of Tourism,
Mahanadi Bhawan, Mantralaya, Police Station And Post - Rakhi, Atal
Nagar, New Raipur, District Raipur Chhattisgarh
2. Managing Director, Chhattisgarh Tourism Mandal, Udyog Bhawan, 2nd
Floor, Ring Road No. 1, Telibandha, Raipur, District - Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Abhishek Pandey with Ms. Deepika Sannat, Advocates
For State	:	Mr. Sudeep Verma, Dy. GA

Hon'ble Shri Justice P. Sam Koshy
Order on Board

15/12/2020

1. The grievance of the petitioner in the present writ petition is the prolonged continuation of suspension period of the petitioner.
2. According to the petitioner he was placed under suspension on account of a Criminal case registered against the petitioner in the year 2016. The order of suspension is dated 05.08.2019. According to the petitioner it has now been more than 1 year that petitioner continuous to remain under suspension. Counsel for the petitioner submits that there is no likelihood of the criminal case being concluded at the earliest and respondent authorities in the department have not initiated any disciplinary proceeding against the petitioner in as much as no show cause notice or charge sheet

has been issued to the petitioner contemplating departmental enquiry. Counsel for the petitioner refers to the judgment of the Supreme Court in the case of **Ajay Kumar Choudhary Vs. Union of India, through its Secretary and another, (2015) 7 SCC 291**, wherein Supreme Court has in a very categorical terms held beyond a period of 90 days the employer has to reconsider whether there is any necessity for continuing the employee under suspension. In the instant case it is now more than 1 year that the petitioner has been under suspension.

3. Given the aforesaid circumstances as it stands, at this juncture it would be relevant to take note of the observations of the Supreme Court in the case of Ajay Kumar Choudhary (Supra) wherein in paragraph 21 the Hon'ble Supreme Court has in a very categorical term has held 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 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.*

4. In the light of the aforesaid judgment of the Supreme Court it would be more appropriate to reconsider whether there is any necessity for continuing the petitioner under suspension or not.
5. Let a decision in this regard be taken by the respondent No.2 at the earliest preferably within a period of 45 days from the date of receipt of copy of this order.
6. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit