

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1056 of 2021**

- Ramkumar Khandekar S/o Shri K. P. Khandekar Aged About 52 Years
R/o Indu Chowk, Near Elim Prayer House, Bilaspur, Police Station Civil
Line, Tahsil And District Bilaspur Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Home /
Police, Mahanadi Bhawan, Atal Nagar, Police Station And Post Rakhi,
New Raipur, District Raipur Chhattisgarh.
2. Inspector General Of Police (I G P) Office Of Inspector General Of
Police, Near Nehru Chowk, Bilaspur District Bilaspur Chhattisgarh.
3. Superintendent Of Police (S. P.) Office Of Superintendent Of Police,
Gaurela Pendra Marwahi, District Gaurela Pendra Marwahi
Chhattisgarh.

---- Respondents

For Petitioner	: Mr. Abhishek Pandey, Advocate & Ms. Deepika Sannat, Advocate
For State	: Mr. Sudeep Verma Dy. G. A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****24/02/2021**

1. The grievance of the petitioner in the present writ petition is that of the prolonged suspension of the petitioner. The petitioner is working on the post of Constable under the respondent No. 3, and has been placed under suspension for an act of misconduct on 23.06.2020.

2. According to the petitioner, it has been more than 8 months that petitioner has now remained under suspension. The contention of the petitioner is that till now only the charge-sheet has been issued subsequent to the petitioner being placed under suspension. According to the petitioner in terms of the judgment of the Supreme Court in the case of **Ajay Kumar Choudhary Vs. Union of India, through its Secretary and another,**

reported in **(2015) 7 SCC 291**, the respondent authorities ought to have reconsidered the case of the petitioner so far as whether he should be continued under suspension or not beyond the period of 90 days.

3. The State counsel submits that it is a case where the petitioner had also been implicated in a criminal case for which, FIR has been lodged under Sections 387, 388, 170 and 370(A) of IPC and thereafter the petitioner has been placed under suspension and now the charge-sheet have also been issued, which would reveal that the disciplinary proceedings against the petitioner is also going on simultaneously. Thus, there is no scope of any interference to the order of suspension.

4. Having heard the contention put-forth by learned counsel for both the parties.

5. At this juncture, it would be relevant to take note of the judgment passed by the Hon'ble Supreme Court in case of **Ajay Kumar Choudhary (supra)**, wherein in para 21 it has been 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.”

6. In terms of the aforesaid observation and direction given by the Supreme Court, it would be necessary that the respondent in the instant case also reconsider the case of the petitioner and decide whether in the facts & circumstances of the case, petitioner's suspension needs to be revoked or not and an appropriate decision in this regard be passed at the earliest preferably within a period of 45 days from the date of receipt of certified copy of this order.

7. Accordingly, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge