

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1299 of 2021**

John Pradeep Lakra S/o Shri L. Lakra Aged About 35 Years R/o
Raghunath Nagar, Balrampur, Tahsil Wadrafnagar, Police Station
Raghunathpur, District Balrampur Ramanujganj Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Home (Police), Mantralaya, Mahanadi Bhawan, police Station And Post Office Rakhi, Atal Nagar, New Raipur, District Raipur Chhattisgarh
2. Director General Of Police (D G P) Police Head Quarter, (P H Q), Police Station And Post Office Rakhi, Atal Nagar, New Raipur, District Raipur Chhattisgarh
3. Inspector General Of Police (I G P) Office Of Inspector General Of Police, Surguja Range, District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Abhishek Pandey, Advocate
For State	:	Mr. V. R. Tiwari, Addl. AG

Hon'ble Shri Justice P. Sam Koshy**Order on Board****08/03/2021**

1. The grievance of the petitioner in the present writ petition is to the order Annexure P-4 dated 14.10.2020 whereby the petitioner has been placed under suspension by the respondent no.2 Director General of Police.
2. According to the petitioner, the petitioner has been placed under suspension by the respondent no.2 who in fact is the Appellate Authority and thereby the petitioner loses the remedy of appeal so far as impugned order of suspension is concerned and therefore the order of suspension is bad.

3. Similarly, the learned counsel for the petitioner also submits that now that more than 4 months have lapsed the departmental enquiry also has not yet proceeded further after the issuance of the chargesheet. Hence the Respondent no.2 is required to reconsider the order of suspension determining as to whether there is any further necessity in continuing with the suspension of the petitioner.
4. Counsel for the petitioner relied upon the judgment of the Supreme Court in the case of **“Ajay Kumar Choudhary v. Union of India, through its Secretary & Another” (2015) 7 SCC 291.**
5. Having heard the contentions put forth on either side and on perusal of record, what is admitted from the factual details provided with the writ petition is that the petitioner was placed under suspension on 14.10.2020 and by now more than 120 days have already been over whereby the petitioner has been placed under suspension.
6. It would be relevant to take note of the Paragraph 21 of the judgment of the Supreme Court in the case of **Ajay Kumar Chaudhary(Supra)** Which for ready reference is reproduced 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/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.”

7. Taking into consideration the aforesaid observations and directions of the Hon'ble Supreme Court and also taking note of the fact that about 5 months have already lapsed after the petitioner having being placed under suspension, the case of the petitioner needs reconsideration so far as deciding the requirement of continuing with the suspension of petitioner is concerned.
8. Let respondent no.2 accordingly keeping in view the judgment of the Supreme Court in mind take an appropriate decision so as to whether there is any need to continue with the suspension of the petitioner in the light of the factual details and the judgment of the Supreme Court referred to in the preceding paragraphs.
9. Let a decision be taken at the earliest preferably within a period of 45 days from the date of receipt of copy of this order.
10. The petitioner would also be at liberty to file a detailed representation to the respondent no.2.
11. With the aforesaid observation, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit