

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1388 of 2021**

- B.R. Kathane, S/o Late Atmaram Kathane, aged about 60 years, Working as Assistant Project Officer (under suspension) office of Jila Panchayat, Balod, presently residing at Naya Amapara, Post Mohan Nagar, District – Durg, Chhattisgarh

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through Additional Chief Secretary Panchayat and Rural Development Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Naya Raipur, Chhattisgarh
2. Chief Executive Officer, Jila Panchayat Balod, District – Balod, Chhattisgarh

---- **Respondents**

For Petitioner : Mr. Ganesh Ram Burman, Advocate

For Respondents-State : Mr. Aditya Bharadwaj, PL for the State

Hon'ble Shri Justice P. Sam Koshy**Order On Board****25.03.2021**

1. The grievance of the petitioner in the present writ petition is the prolong suspension from service of the petitioner.
2. The petitioner in the present writ petition has been placed under suspension vide order dated 23.01.2018. The ground for suspension was the petitioner got implicated in a criminal case for the offence punishable under Sections 420, 467, 468, 471 and 201 IPC and the criminal case of which still pending before the concerned trial Court.
3. According to the petitioner, it has been now more than three years that the

petitioner has placed under suspension, the criminal case also is proceeding at a slow pace and the department otherwise also has not initiated any disciplinary proceeding against the petitioner. Therefore, the authorities at this juncture should reconsider whether in the given factual background the services of the petitioner should be continued under suspension or the suspension order needs to be revoked.

4. Considering the limited relief that the petitioner has it would be relevant at this juncture to refer to the judgment of the Hon'ble Supreme Court in the case of **“Ajay Kumar Choudhary V. Union of India, through its Secretary and Another” (2015) 7 SCC 291**, whereas in Para 21 of the judgment Hon'ble Supreme Court 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. ”

5. Taking into consideration the aforementioned directions of the Hon'ble Supreme Court this Court is of the opinion that since the petitioner also has

remained under suspension for a period of more than three years the authorities needs to reconsider the order of suspension of the petitioner and take a decision as to whether the suspension has to be continued or not.

6. Given the said facts let the respondent No.2 take a decision afresh keeping in view the judgment of the Hon'ble Supreme Court within a period of 45 days from the date of receipt of copy of this order.
7. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

(P. Sam Koshy)
Judge