

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1731 of 2021**

1. Shivnarayan Baiga S/o Late Bhau Ram Aged About 58 Years R/o Village Birkona, Police Station Koni, District Bilaspur (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Employment And Training Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur (Chhattisgarh)
2. Director Directorate, Employment And Training Department, Indrawati Bhawan, Atal Nagar, Nawa Raipur, District Raipur (Chhattisgarh)

----Respondents

For Petitioner	:	Mr. C. Jayant K. Rao, Advocate.
For State	:	Mr. Sudeep Verma, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****09/04/2021**

1. The present writ petition has been filed being aggrieved of the prolonged suspension of the petitioner in service.
2. According to the counsel for the petitioner, the petitioner herein working on the post of Principal District Jashpur was charged for an offence u/s 376(B) and was arrested on 19.09.2020. Considering the fact that the petitioner was arrested in a criminal case and has undergone custody for a period of more than 48 hours, the respondents had ordered for placing the petitioner under suspension vide order dated 29.09.2020.
3. The grievance of the petitioner is that it has been by now about seven months that he has been under suspension. According to the counsel for the petitioner as regards the criminal case that has

been filed against the petitioner except for the filing of the charge-sheet, there has been no further progress in the case and at the given pace, there is all livelihood of the trial getting prolonged for a considerable period of time. The contention of the petitioner also is that the department as such has not issued any charge-sheet to the petitioner contemplating any disciplinary proceedings against him.

4. Referring to the judgment of the Supreme in the case of Ajay Kumar Choudhary vs. Union of India, the learned counsel for the petitioner submitted that beyond a period of 90 days from the initial date of suspension, the respondent-authorities ought to have reconsidered as to whether the suspension of the petitioner needs to be continued or not.
5. Given the aforesaid submission of the learned counsel for the petitioner, it would be relevant at this juncture to refer to paragraph-21 of the Judgment of the Supreme Court in the case of Ajay Kumar Choudhary. For ready reference, paragraph 21 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/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension."

6. Undisputedly, it has been about seven months now that the petitioner remains under suspension. Under the circumstances, the authorities need to reconsider its decision of placing the petitioner under suspension. Let an appropriate decision in this regard therefore be taken by the authorities concerned at the earliest

preferably within a period of 60 days from the date of receipt of copy of this order keeping in view the judgment of the Supreme Court in the case of Ajay Kumar Choudhary (supra).

7. It is made clear that the said judgment does not anywhere envisage that there shall be a revocation of suspension automatically beyond a period of 90 days. The authorities are only supposed to consider the gravity of the nature of charge and offence levelled against the employee/officer concerned and reach to a conclusion whether in the given factual back-drop the order of suspension needs to be revoked or not. It is expected that the respondent-authorities shall take a fair call on the issue. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Jyotijha