

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1862 of 2021**

- Anil Kumar Das S/o Shri Paras Nath Das Aged About 30 Years
R/o Village Jhumarapara, Post Bhitikala, Ambikapur District
Surguja Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Health And Family Welfare Department, Capital Complex, Mahanadi Bhawan, Mantralaya, Atal Nagar Police Station Rakhi, Nawa Raipur Civil And Revenue District Raipur Chhattisgarh
2. Director Health Service, Indravati Bhawan, Nava Raipur, Atal Nagar, District Raipur Chhattisgarh
3. Divisional Joint Director Health Services, Surguja Division Chhattisgarh
4. Dr. A. K. Jaiswal Posted As Hospital Joint Director And Superintendent In Medical College, Ambikapur, District Surguja Chhattisgarh
5. Chief Medical And Health Officer Ambikapur District Surguja Chhattisgarh

-----Respondents

For the Petitioner	:	Mr. Bhaskar Payashi, Advocate
For the State	:	Ms. Hamida Siddiqui, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****07/04/2021**

1. The grievance of the petitioner in the present writ petition is his prolonged suspension in service.

2. The petitioner in the instant case was placed under suspension on 23.05.2018 contemplating disciplinary proceedings. According to the petitioner, after the petitioner was placed under suspension he was issued with a charge-sheet and thereafter there has been no further development and the departmental enquiry is proceeding at a very slow pace.
3. Counsel for the petitioner submits that in the light of 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, the Authority concerned are required to reconsider the case of the petitioner deciding whether the suspension of the petitioner needs to be continued or not.
4. The State counsel on the other hand, submits that since the petitioner has been suspended contemplating disciplinary proceeding and the enquiry also has been initiated, the petitioner has been placed under suspension for justifiable reasons.
5. Having heard the contentions put-forth on either side and on perusal of records, it would be necessary at this juncture to put the judgment of the Supreme Court in the case of **Ajay Kumar Choudhary(Supra)** wherein Paragraph 21 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. Given the aforesaid findings of the Hon'ble Supreme Court, the writ petition at this juncture stands disposed off directing the respondent No.3 to reconsider the case of the petitioner as to whether he should be continued under suspension or not in the light of the judgment of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary(Supra)**.
7. Let an appropriate decision be taken up at the earliest preferably within a period of 60 days from the date of receipt of copy of this order.
8. The writ petition accordingly stands disposed off.

Sd/-

(P. Sam Koshy)
Judge

parul