

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2277 of 2021**

Sultan Singh Banjara S/o Shri Johar Singh Banjara, Aged About 50 Years, R/o Village And Post Piparkhuti, Tahsil Pendra Road, Police Station Gaurela, District Gaurela Pendra Marwahi (GPM) Chhattisgarh

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

1. State Of Chhattisgarh Through Secretary, Department Of Revenue, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, Nawa Raipur, District Raipur, Chhattisgarh
2. The Director, Department Of Revenue, Directorate, Indrawati Bhawan, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh
3. The Collector, Korba, District Korba, Chhattisgarh
4. The Sub Divisional Officer (R) Korba, District Korba, Chhattisgarh
5. The Tahsildar Pali, District Korba, Chhattisgarh.

---- **Respondents**

For Petitioner	:	Mr. Dharmesh Shrivastava, Advocate
For State	:	Mr. Shreshta Gupta, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****06.04.2021**

1. Aggrieved of the prolonged suspension order dated 13.11.2017 the present writ petition has been filed.
2. The contention of the counsel for petitioner is that the present petitioner was placed under suspension on 13.11.2017 on account of being implicated in a criminal case for the offence punishable under Sections 420, 467, 468, 471 & 120B of IPC for which he was also arrested. According to the petitioner, the

Department, after placing the petitioner under suspension till date, has not initiated any disciplinary proceeding and the criminal case initiated against the petitioner is proceeding at a very slow pace as only a few of the prosecution witnesses have been examined and majority of the prosecution witnesses are yet to be examined.

3. Counsel for the petitioner refers to the judgment of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary v. Union of India through its Secretary and Anr.** reported in **(2015) 7 SCC 291** stating that beyond the period of 90 days, the respondent authorities ought to have considered as to whether the service of the petitioner needs to be continued under suspension or not. Therefore, an appropriate direction be issued to the respondents in this regard.
4. Having heard the contention put forth by the counsel for the petitioner and on perusal of the record, it would be relevant at this juncture to take note of paragraph-21 of the judgment of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary (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/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. As, in the case in hand, the Government is free to transfer the person concerned to any department in any of its officers 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 the 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. Considering the aforesaid direction of the Hon'ble Supreme Court and also taking note of the fact that the petitioner herein has already undergone suspension for a period of more than 3 years, this Court is of the opinion that the case of the petitioner needs to be reconsidered whether the suspension order needs to be revoked or not.
6. In view of the same, the writ petition, at this juncture, stands disposed of directing the respondent no.4 to decide as to whether in the given factual back drop the suspension of the petitioner needs to be reconsidered or the order of suspension needs revocation. Let an appropriate decision be taken keeping in view the judgment of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary (supra) at the earliest preferably within a period of 45 days from the date of receipt of copy of this order.
7. The writ petition accordingly stands disposed of.

**Sd/-
P. Sam Koshy
Judge**

Khatai