

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2487 of 2021**

Motilal Verma S/o Late Shri Hariram Verma, Aged About 60 Years
Suspended Lecturer, Minimata, Government Girls Higher Secondary
School, Kasdol, District - Balodabazar - Bhatapara, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Principal Secretary, School Education Department, Mahanadi Bhawan, New Raipur, Chhattisgarh
2. The District Education Officer, District - Balodabazar - Bhatapara, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Abhishek Pandey, Advocate
For State	:	Ms. Sunita Jain, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****17.06.2021**

1. Aggrieved by the prolonged period of suspension the present writ petition has been filed.
2. The grievance of the petitioner is that he was placed under suspension on 15.03.2019 and it has been more than 2 years that he is under suspension, therefore, the authorities need to reconsider whether the suspension has to be continued or not.
3. Learned counsel for the petitioner relies upon 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** in support of his contention. According to the counsel for petitioner, though the order of suspension exists for more than 2 years, the departmental inquiry initiated

against the petitioner has not been progressed substantially and is proceeding at a slow pace therefore also the authorities may reconsider whether the order of suspension needs to be revoked or not.

4. Per contra, state counsel opposing the petition submits that the petitioner was served with a charge sheet on 10.05.2019 and perusal of the charges levelled against the petitioner would clearly reflect that the allegations against the petitioner are of serious nature. It is the further contention of the state counsel that after the charge sheet was issued for last about more than 1 ½ years because of Covid-19 pandemic the departmental inquiry could not be progressed and that is the reason for the delay in conclusion of the departmental inquiry.
5. Be that as it may, it is relevant at this juncture to refer to the judgment of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary (supra) where the Supreme Court in 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. 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.”

6. The plain perusal of the aforesaid observation and direction of the Hon'ble Supreme Court it becomes incumbent upon every employer under whom an employee is placed under suspension to reconsider the order of suspension beyond a period of 90 days and to consider whether the order of suspension has to be revoked or it has to be continued.
7. Given the said observation of the Hon'ble Supreme Court, the present writ petition stands disposed of directing the respondent no.1 to take an appropriate decision reconsidering the aspect as to whether in the given facts the order of suspension of the petitioner deserves reconsideration and whether the order of suspension needs to be revoked or not.
8. Let respondent no.1 take an appropriate decision in this regard at the earliest preferably within a period of 60 days from the date of receipt of copy of this order.
9. With the aforesaid observation and direction, the writ petition stands disposed of.

Sd/-
P. Sam Koshy
Judge