

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2993 of 2021**

Chandrakant Manik S/o Late Ram Pado (R. P.) Manik, Aged About 56 Years, R/o Rajkishor Nagar, Phase 1, Sector B, District Bilaspur Chhattisgarh

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

1. State Of Chhattisgarh Through The Secretary, Department Of Home, Mahanadi Bhawan, New Mantralaya, Naya Raipur, Chhattisgarh
2. Chairman Cum Managing Director, Chhattisgarh Police Housing Corporation Limited, Headquarters, Raipur, Chhattisgarh

---- **Respondents**

For Petitioner	:	Mr. Varun Sharma, Advocate
For State/Respondent no.1	:	Ms. Sunita Jain, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****29.06.2021**

1. The relief sought by the petitioner in the present writ petition is for an appropriate direction to the respondents to consider whether the petitioner's suspension needs to be continued or not.
2. Learned counsel for the petitioner submits that the petitioner has been placed under suspension w.e.f. 11.09.2017 by the respondent no.2. The suspension was only on account of the petitioner being subjected to a criminal prosecution for the offence punishable under section 13 (1) (e) of the PC Act. The criminal trial of the petitioner under the PC Act is pending consideration before the Special Court at Bilaspur. When the petitioner was placed under suspension, he was discharging his duties

at Raipur. The petitioner, meanwhile, seems to have been residing at Bilaspur in order to participate in the criminal case. The petitioner initially was not given his subsistence allowance for which the petitioner subsequently approached this Court through WPS No. 3266/2018. This Court vide order dated 25.02.2019 had ordered the state authorities to consider immediately so far as granting of subsistence allowance to the petitioner is concerned and for continuing the same as long as the petitioner is under suspension. The petitioner thereafter has been receiving subsistence allowance without any break. In January, 2021 the respondent no.2 directed the petitioner for reporting his presence at Raipur as Raipur is the headquarter of the petitioner. It is alleged that the petitioner has refused to accept his reporting at Raipur and in the process, the respondents have also stopped further releasing of subsistence allowance from January, 2021 onwards.

3. Learned counsel appearing for the State submits that subject to the petitioner reporting at Raipur the subsistence allowances shall be released to the petitioner. State counsel referred to certain requests made by the petitioner expressing his inability in reporting at Raipur and also his request for change of headquarter.
4. Learned counsel for the petitioner submits that the petitioner shall again report his presence at his headquarter, Raipur without fail and the respondents in turn may be directed to release the subsistence allowance.
5. The writ petition, so far as the subsistence allowance is concerned, is accordingly disposed of directing the petitioner to give reporting at his headquarter, Raipur and the respondents shall thereafter immediately process the claim of the petitioner for releasing of the subsistence

allowance.

6. Counsel for the petitioner also makes a request that in terms of the judgment of **Ajay Kumar Choudhary v. Union of India through its Secretary and Anr.** reported in **(2015) 7 SCC 291**, the respondent authorities are liable to reconsider whether the suspension of the petitioner needs to be continued or not since the petitioner has remained under suspension for a period of beyond 90 days. It is further contention of the petitioner that even the State Govt. in its circular dated 02.07.2012 has envisaged that in the event of an order of suspension prolonging for a period beyond one year, the authorities need to reconsider whether the suspension needs to be continued or not.
7. Given the said submission by the counsel for the parties and also taking into consideration both the judgment of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary (supra) and the circular dated 02.07.2012 of the State Govt., the respondent no.2 is hereby directed to reconsider the issue of suspension of the petitioner and decide as to whether the suspension in the factual backdrop of the same being in operation since 2017 onwards has to be revoked or not, keeping in view the judgment of the Supreme Court in the case of Ajay Kumar Choudhary (supra) and also the circular dated 02.07.2012.
8. Let a decision be taken by the respondent no.2 in this regard at the earliest preferably within a period of 60 days from the date of receipt of copy of this order.
9. Meanwhile, subject to the petitioner reporting at his headquarter Raipur, the respondents shall immediately proceed further with the releasing of subsistence allowance to the petitioner.

- 10.** With the aforesaid observations/directions, the writ petition stands disposed of.

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

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