

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 3854 of 2021

1. Bachchu Bhai S/o Sheikh Noor Aged About 54 Years Peon (Under Suspension) Office of Assistant Commissioner (Tribal Department) Collectorate Raipur, District Raipur Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through The Principal Secretary, Tribal Department Mahanadi Bhavan , Mantralaya Atal Nagar, Naya Raipur, District Raipur Chhattisgarh.
2. Assistant Commissioner (Tribal Welfare) Collectorate Raipur, District, Raipur, Chhattisgarh.

---Respondents

For Petitioner	:	Shri Ganesh Ram Burman, Advocate.
For State	:	Ms. Binu Sharma, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

28.07.2021

1. The grievance of the petitioner in the present writ petition seems to be the prolonged suspension in service. According to the petitioner, he has been placed under suspension on 29.11.2018 since then he has been continues to remain under suspension.
2. The petitioner seems to have been placed under suspension on account of his undergoing judicial custody for a period of more than 48 hours in connection with a criminal case in which he got implicated for an offence under Section 420 IPC. The criminal case is already put to trial and the charges have been framed against the petitioner as early as on 03.02.2019. The petitioner continued to remain under custody till he was released on bail vide order of the High Court dated 18.03.2020.
3. The counsel for the petitioner referring to the circular of the State Govt. dated 02.07.2012 and also the judgment of Supreme Court in case of Ajay Kumar Choudhary Vs. Union of India & Ors submits that the authorities

need to reconsider the issue of suspension keeping in view the said judgment of Supreme Court.

4. The State counsel on the other hand submits that it is a case where the petitioner has been charged with a serious offence under Section 420 IPC for having received illegal gratification of more than 20 Lakhs and the trial is still underway and therefore at this juncture it would not be appropriate for revoking the suspension.
5. Be that as it may, since the Supreme Court has in the judgment of Ajay Kumar (Supra) in paragraph 21 has specifically directed that in all those cases where the suspension continues for a period beyond 90 days, the authorities need to reconsider whether the suspension needs to be revoked or it should be continued at this juncture.
6. Given the said direction of the Supreme Court in case of Ajay Kumar (Supra) the writ petition at this juncture stands disposed of directing the respondents to consider the claim of the petitioner for revocation of the suspension keeping in view the judgment of Supreme Court in case of Ajay Kumar (Supra) and also keeping in view the circular of the State dated 02.07.2012. Let an appropriate decision be taken at the earliest preferably within a period of 60 days from the date of receipt of copy of this order.
7. As regards the other claim that the petitioner has raised for compensation, the right of the petitioner stands reserved for raising it by way of appropriate different proceedings altogether.
8. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge