

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4113 of 2021**

Ashok Kumar Kurmi S/o Latel Ram Kurmi Aged About 54 Years R/o Village-Selar, Tehsil And District- Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Panchayat And Rural Development Department, Indravati Bhawan, Atal Nagar, Naya Raipur, Chhattisgarh.
2. Chief Executive Officer Jila Panchayat, Bilaspur, Chhattisgarh
3. Chief Executive Officer Janpad Panchayat, Bilha, District- Bilaspur, Chhattisgarh

----Respondents

For Petitioner	:	Mr. Shailesh Tiwari, Advocate
For State	:	Ms. Sunita Jain, G.A.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

11/08/2021

1. Counsel for the petitioner submits that the grievance of the petitioner now is confined to the prolonged suspension that he is undergoing.
2. According to the petitioner, he was placed under suspension by the respondent No.2 vide order dated 12.04.2021. According to the petitioner, it is more than 4 months that the petitioner has remained under suspension and till now except for the issuance of a charge-sheet, there has been no further substantial progress on the disciplinary proceeding. It is the further contention of the petitioner that in the light of the judgment of the Hon'ble Supreme Court in the case of **“Ajay Kumar Choudhary v. Union of India, through its Secretary & Another” (2015) 7 SCC 291** the matter needs to

reconsider in respect of the continuation of the suspension, since the period of suspension has crossed more than 90 days.

3. The counsel appearing for the State submits that the order of suspension has been issued by the respondent No.2, it appears that it was an act of misconduct that the petitioner was suspended and the disciplinary proceeding also is contemplated.
4. Given the facts and circumstances of the case, undisputedly the petitioner continues to remain under suspension now for a period of more than 120 days. The Hon'ble Supreme Court in the case of '**Ajay Kumar Choudhary**' (supra) has in paragraph No.21 categorically ordered all employers to reconsider the order of suspension in respect of employees, who have remained under suspension for a period beyond 90 days. For ready reference paragraph No.21 of the said judgment 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/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.”

5. Given the said facts and circumstances of the case, the writ petition at this juncture stands disposed of directing the respondent No.2 to reconsider the case of the petitioner, so far as continuity of the petitioner under suspension. Let the respondent No.2 take an appropriate decision at the earliest preferably within a period of 60 days from the date of receipt of the copy of this order.
6. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved