

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4051 of 2021**

Satyaprakash Madhukar S/o Shri Lalsay Madhukar Aged About 28 Years
Than Posted As Sub Engineer Nagar Panchayat, Patharia, District
Mungeli, R/o Village Khairakundi, Post Sarvandevari, Police Station
Ratanpur, District Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary (Municipal Establishment Branch), Urban Administration And Development, Nava Raipur, Atal Nagar, District Raipur Chhattisgarh
2. Special Secretary Development Of Urban Administration And Development, Nava Raipur , Atal Nagar, District Raipur Chhattisgarh.
3. Director Urban Administration And Development, Nava Raipur, Atal Nagar, Chhattisgarh.
4. Collector District Mungeli, Chhattisgarh.
5. Joint Director Urban Administration And Development, Regional Office, Bilaspur, Chhattisgarh.
6. Chief Municipal Officer Nagar Panchayat, Pathariya, District Mungeli.

---- Respondents

For Petitioner	:	Mr. Ashutosh Trivedi, Advocate
For State/Res. No.1 to 5	:	Mr. Suyash Dhar, PL

Hon'ble Shri Justice P. Sam Koshy**Order on Board****06/08/2021**

1. The present writ petition has been filed by the petitioner aggrieved of the prolonged suspension which the petitioner is undergoing.
2. The petitioner in the instant case was working as a Sub Engineer under the Nagar Panchayat, Patharia which falls under respondent

no.6. The petitioner's services was placed under suspension vide order dated 09.09.2019 passed by the respondent no.3. The order of suspension was on account of petitioner getting implicated in a criminal case under the Prevention of Corruption Act.

3. Contention of the petitioner is that it is now around 2 years time that petitioner has been placed under suspension and therefore the same needs to be reconsidered in the light of the judgment of the Supreme Court in the case of **“Ajay Kumar Choudhary v. Union of India, through its Secretary & Another” (2015) 7 SCC 291.**
4. Further contention of the petitioner is that the criminal case which was initiated against the petitioner is progressing at a very slow pace, it may take a considerable amount of time in the conclusion of the said proceeding and order of suspension therefore needs to be reconsidered keeping in view this aspect also.
5. It would be relevant at this juncture to take note of the observation of Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary(Supra)** wherein in paragraph 21 it has been 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/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.”

6. Keeping in view the aforesaid observations and directives given by the Hon'ble Supreme Court, the respondent no.3 is therefore at this juncture directed to reconsider whether to continue the petitioner under suspension and considering the entire factual matrix of the matter, decide as to whether the order of suspension needs revocation or not?
7. It is made clear that this Court has not expressed any opinion so far as merits of the case is concerned. Respondent no.3 is free to take an appropriate decision considering the overall merits of the case.
8. Let a decision be taken in this regard by the respondent no.3 at the earliest preferably within 60 days from the date of receipt of copy of this order.
9. With the aforesaid observations and directions, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit