

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(S) No. 6008 of 2021**

- Rakesh Pandey S/o Late Shri Suryanarayan Pandey Aged About 39 Years R/o Village And Post - Gadhbengal, Police Station Tahsil And District- Narayanpur (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Home (Police) Mahanadi Bhawan, Mantralaya, Police Station And Post- Rakhi Atal Nagar, New Raipur, District Raipur (Chhattisgarh)
2. The Director General/home Guard And Citizen Protection Head Quarter, Police Station And Post - Rakhi Atal Nagar, New Raipur, District Raipur (Chhattisgarh)
3. The Divisional Commandant (Office Of Divisional Commandant, Bastar Division, Jagadalpur, District Bastar (Chhattisgarh)
4. The District Commandant (Office Of District Commandant), Home Guard Narayanpur District- Narayanpur (Chhattisgarh)

---- Respondents

For Petitioner:	Shri Abhishke Pandey, Advocate
For State/Respondents:	Smt. Sunita Jain, Govt. Advocate.

Single Bench: Hon'ble Shri Sanjay S. Agrawal, J**Order On Board****08.11.2021**

1. By way of this petition filed under Article 226 of the Constitution of India, the Petitioner is questioning the legality and propriety of the order impugned dated 08.03.2021 (Annexure P1) by which the Petitioner has been placed under suspension.

2. Learned counsel for the petitioner submits that the Petitioner, who was working on the post of Home Guard in the office of Respondent No.4-District Commandant, Home Guard Narayanpur, District Narayanpur C.G. was placed under suspension vide order dated 08.03.2021 owing to certain allegations

leveled against him. It is contended further that since the period of 90 days from passing of the said order has already been over without furnishing the charge sheet to him, therefore, the order impugned deserves to be set aside in view of the principles laid down by the Supreme Court in the matter of ***Ajay Kumar Choudhary V. Union of India through its Secretary and another*** reported in **(2015) 7 SCC 291**.

3. On the other hand, learned State counsel, while opposing the same, submits that the order impugned as passed by Respondent No.4 is appealable as per the provision prescribed under Rule 13(1) of M.P./C.G. Home Guards Rules, 1947, and therefore, the instant petition is premature in nature and deserves to be dismissed. It is contended further that the Petitioner has not stated anywhere that the charge sheet has not been provided to him during the said period, and therefore, the Petitioner is not entitled to get the relief based upon the principles laid down in the said matter of Ajay Kumar Choudhary (supra).

4. I have heard learned counsel for the parties and perused the entire papers annexed with this petition carefully.

5. From perusal of the record, it appears that vide order impugned dated 08.03.2021 (Annexure P1), the Petitioner, who was performing his duties as Home Guard in the office of Respondent No.4, has been placed under suspension. According to the Petitioner, since charge sheet has not been provided within a period of 90 days, therefore, the order impugned deserves to be set aside in view of the principles laid down in the matter of Ajay Kumar Choudhary as in the said matter, it has been observed that the currency of the suspension order should not be extended beyond three months, if within this period the memorandum of charge sheet is not served on the delinquent

officer/employee. However, from perusal of the entire averments made in the petition, it appears that the Petitioner has not stated anywhere that the memorandum of charge sheet has not been provided to him. In absence of such a material plea, the order impugned would not be required to be set aside based upon the said principles as laid down in the matter of Ajay Kumar Choudhary (supra). That apart, the order impugned is appealable as provided under Rule 13(1) of M.P./C.G. Home Guards Rules, 1947.

6. In view of above, I am not inclined to entertain this petition.

7. The writ petition accordingly dismissed at admission stage itself. No order as to costs.

Sd/-
(Sanjay S. Agrawal)
JUDGE