

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 6001 of 2021**

1. Kishore Kumar Mehra S/o Late Birsuram Mehra Aged About 57 Years Posted As Assistant District Sports Officer, R/o Village Labour Colony, Ward No. 17, Rajnandgaon, Tahsil And District Rajnandgaon (C.G.)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, School Education Department Mahanadi Bhawan, Nawa Raipur, Atal Nagar, District Raipur, Chhattisgarh
2. The Commissioner Public Instruction (D.P.I.), Directorate, Nawa Raipur, Atal Nagar, Indravati Bhawan, District Raipur Chhattisgarh
3. The Directore Public Instructions (D.P.I.), Directorate, Nawa Raipur, Atal Nagar, Indrawati Bhawan, District Raipur Chhattisgarh
4. The Deputy Director Public Instruction (D.P.I.), Directorate, Nawa Raipur, Atal Nagar, Indrawati Bhawan, District Raipur Chhattisgarh
5. District Education Officer Rajnandgaon, District Rajnandgaon C.G.

---- Respondents

For Petitioner	:	Shri Rishikant Mahobia, Advocate
For State	:	Shri Soumya Rai, Panel Lawyer

S.B.: Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****27/10/2021**

Heard.

1. The petitioner is aggrieved against order dated 13/09/2021 by which, the Commissioner, Public Instructions (DPI), Raipur has declined to revoke suspension of the petitioner.
2. Learned counsel for the petitioner submits that investigation is complete, no further investigation is necessary and more than 90 days have elapsed from the date of passing of the order of suspension but he has not been revoked. It is submitted

that if after enquiry, custody is not necessary, it would be appropriate that the order of suspension is revoked. The petitioner has made a representation in the light of decision rendered by the Supreme Court in the case of **Ajay Kumar Choudhary v. Union of India (through its Secretary) and anr., (2015) 7 SCC 291.**

3. Learned State counsel would submit that 2nd proviso to Rule 9 (3) of the Rules of 1966 would not be applicable.

4. I have heard learned counsel for the parties and considered their submissions and also went through the record with utmost circumspection.

5. Since 90 days have already been expired from the date of suspension, petitioner's case ought to have been considered by the District Education Officer whether continuation of suspension is required or not. But the same was not considered and suspension was not revoked mainly on the ground that in a criminal case, departmental enquiry is going on against the employee.

6. Be that as it may, respondent No.2 is directed to consider and dispose off petitioner's representation for revocation of suspension in the light of decision rendered by Hon'ble the Supreme Court in the case of **Ajay Kumar Choudhary** (supra). Relevant paragraph of the said decision is quoted as below -

“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 / charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet 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 person concerned 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.”

Decision in the present case shall be taken within 30 days from the date of receipt of copy of this order.

7. With the aforesaid observations, this petition is finally disposed off. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge