

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 8232 of 2019**

Dipak Singh Namdev S/o Shri Shivkumar Namdev, Aged About 40 Years, Occupation Field Officer, District Antyavasai, Kabirdham Chhattisgarh, Present Address Sheetla Ward, Kabir Para, Kabirdham District Kabirdham, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Scheduled Tribes And Scheduled Caste Development Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur, District Raipur, Chhattisgarh
2. Commissioner, Scheduled Tribes And Scheduled Caste Development Department, Indravati Bhawan, Atal Nagar, Nawa Raipur, District Raipur, Chhattisgarh
3. Managing Director, Chhattisgarh State Antyavasai Sahakari Vitta Evum Vikas Nigam, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh
4. The Collector And President Of District Antyavasai Sahakari Vikas Samiti Kabirdham, District Kabirdham, Chhattisgarh
5. The Collector And President Of District Antyavasai Sahakari Vikas Samiti Sukma, District Sukma, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Dharmesh Shrivastava, Advocate
For State	:	Mr. Rahul Jha, Govt. Advocate
For Respondent no.3	:	Mr. Devesh Verma, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****09.06.2021**

1. Aggrieved by the order of suspension dated 21.01.2019 the present

writ petition has been filed. The petitioner has been placed under suspension on account of the petitioner getting implicated in a criminal case under the provisions of the Prevention of Corruption Act.

2. The Contention of the learned counsel for the petitioner, today when the matter is taken up, is that the petitioner has been placed under suspension since 21.01.2019 i.e. it is about 2 ½ years now that he is continuing under suspension. According to the petitioner, though he has been suspended by the authorities but no disciplinary proceeding has been initiated against him till date and that the criminal case which is filed against the petitioner also is progressing at a very slow pace coupled with the effect of pandemic the progress of the criminal case has further got slowed down. Counsel for the petitioner referring to the judgment of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary v. Union of India through its Secretary and Anr. reported in (2015) 7 SCC 291** submits the authorities are required to reconsider as to whether the petitioner needs to be continued under suspension or not. He submits that the authorities concerned have to take a decision in the light of the judgment of the Supreme Court in the case of Ajay Kumar Choudhary (supra).
3. Both the learned counsel appearing for the State as also for the respondent no.3 submit that in view of the judgment of the Hon'ble Supreme Court the authorities can be directed to reconsider as to whether the suspension of the petitioner needs to be continued or it needs to be revoked.
4. It would be relevant at this juncture to refer to the judgment of the Supreme Court in the case of Ajay Kumar Choudhary (supra) where

in paragraph-21 it has been held as under:

“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 officers 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 the 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. In all those cases where the period of suspension is beyond 90 days the authorities concerned have to reconsider whether the suspension order needs to be continued or not.
6. In the light of the judgment of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary (supra) the writ petition at this juncture stands disposed of with a direction to the respondent no.3 to take a decision and pass an order deciding whether the suspension order of the petitioner needs to be revoked or not. While deciding the same, the authorities shall bear in mind the judgment of the Supreme Court in the case of Ajay Kumar Choudhary (supra). It is expected that the respondent no.3 would take a decision at the earliest preferably

within a period of 60 days from the date of receipt of copy of this order.

7. The writ petition accordingly stands disposed of.

**Sd/-
P. Sam Koshy
Judge**

Khatai