

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 10640 of 2024

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Tauquir Alam Son of Late Md Jamil Akhtar, Resident of Village- Patalwa,
Post- Surjapur, P.S. and District- Kishanganj, PIN- 855107.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Department of Education, Government of Bihar, New secretariat, Patna.
2. The Additional Chief Secretary, Department of Education, Government of Bihar, New Secretariat, Patna.
3. The District Magistrate, Kishanganj.
4. The Regional Deputy Director of Education, Purnea.
5. The District Education Officer, Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Manini Jaiswal
For the Respondent/s : Mr.Standing Counsel 12

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 26-06-2025

This petition has been preferred by the petitioner being aggrieved with the order dated 03.06.24 (Annexure P/5) whereby and where under the petitioner has been suspended in terms of Rule 9 (i) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005.

2 When the petition was heard on 18.07.2024, a coordinate Bench of this Court stayed the suspension order dated 03.06.2024. In the light of above order passed by this Court, vide order dated 12.08.2024 (Annexure P/14), suspension of the



petitioner has been revoked. Then vide order dated 14.08.2024 (Annexure P/16), his joining was accepted. He was posted in the office of District Education Officer, Kishanganj. On the same date, i.e. on 14.08.2024 (Annexure P/17), the petitioner was again suspended based upon the same allegation.

3 Learned counsel for the petitioner would submit that though charge sheet has been served upon the petitioner but no order of extension of his suspension dated 03.06.2024 and 14.08.2024 has been passed by the competent authority. Therefore, in the light of judgment passed by the Supreme Court in the case of *Ajay Kumar Choudhary -Versus- Union of India through its Secretary & Another*, reported in (2015) 7 *Supreme Court Cases 291*, the petitioner is entitled to get his suspension revoked. Reliance has also been placed by the counsel on the judgment dated 14.12.2023 passed by a Single Judge of the High Court of Chhattisgarh in *Writ Petition (S) No 9074 of 2023* in the case of *Kishore Kumar @ K Kumar -Versus- State of Chhattisgarh* and other connected writ petitions.

4 Learned counsel for the respondent-State submits that since the charge sheet has been finally served on the petitioner, therefore, now the suspension cannot be revoked on the ground



that within the stipulated period, the petitioner has not been served upon any charge sheet.

5 I have heard learned counsel for the parties and perused the documents annexed with the writ petition.

6 In the case of *Ajay Kumar Choudhary (supra)*, dealing with the issue, the Supreme Court observed and held at paragraph 21 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/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 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.”

7 The language, expressions including the punctuation used by their Lordships in the case of *Ajay Kumar Choudhary (supra)* has been analyzed by a Single Bench of the High Court of Chhattisgarh (myself as I was posted there) in the case of *Kishore Kumar (supra)*, and it was observed in paragraphs 11, 12, 13, 14 and 15 as follows:

“11. Taking in the proper perspective, this direction can be divided into parts viz:

(i) a main clause, i e, “direct that the currency of a suspension order should not extend beyond three months”,

(ii) sub-clause: “if within this period the memorandum of charges/charge sheet is not served on the delinquent officer/employee”;

(iii) sub-clause: “if the memorandum of charges/charge sheet is served, a reasoned order must be passed for the extension of the suspension”.

12. Analyzing the language, expressions including the punctuation used by their Lordships, it can be categorically stated that the main clause, being mandatory and the two sub-clauses, distinctly marked with the help of the punctuation semi colon (;) and the insertion of the conjunction ‘if’ to being with the two sub-clauses, clearly indicate that the direction in entirety is continuous in nature and is contained within 90 days essentially. Therefore, it clearly shows that the currency of 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. Meaning thereby, serving of memorandum of charges/charge sheet within 90 days of suspension is mandatory. Further, it is also clear that if the memorandum of charges/charge sheet is served, a reasoned order must be passed for extension of the suspension. In view of this Court, in Ajay Kumar Choudhary (supra), the intent of the Hon'ble Supreme Court is clear that if the memorandum of charges/charge sheet is served, an order of extension of the suspension must also be passed.

13. Now, the question is whether the stipulation directed by the Hon'ble Supreme Court in Ajay Kumar Choudhary (supra) is applicable in the event when the ingredients on which the stipulation ought to be applied goes beyond the limited period of 90 days, as raised in the instant case. For the purpose, the case has to be understood in its entirety. The Hon'ble Supreme Court is very specific on two important aspects viz:

(a) safeguard the interest of the person arrayed as delinquent;

(b) not to allow protracted suspension, affecting the liberty.

Relevant para 11 of the judgment of the Hon'ble Supreme Court in Ajay Kumar Choudhary (supra) is emphasized, which reads as under:

“11. Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. If it is for an indeterminate period or if its renewal is not based on sound reasoning contemporaneously available on the record, this would render it



punitive in nature. Departmental/disciplinary proceedings invariably commence with delay, are plagued with procrastination prior and post the drawing up of the memorandum of charges, and eventually culminate after even longer delay.”

“14. It is pertinent to note that the Hon’ble Supreme Court in its wisdom has drawn an analogy on the subject matter in hand with the statutory right envisaged in Section 167 of the Code of Criminal Procedure. Therefore, it can never be understood that the Hon’ble Supreme Court ever meant to condone the stipulated period of 90 days if the department acts contrary to the directions as observed in para 21 of Ajay Kumar Choudhary (supra). Moreover, the application of check and balance has to be applied by way of natural justice failing which the actions of the department to extend the proceedings along with the suspension is likely to cause arbitrariness in the system. Thus, in view of the above, it is clear that in Ajay Kumar Choudhary (supra), the intent of the Hon’ble Supreme Court is clear that even after the issuance of charge sheet, an order of extension of the suspension must be passed within the period of 90 days of the date of suspension.”

15. In conclusion, it is held that the order of extension of the suspension must be passed within the period of 90 days of the suspension.”

8 In the light of above observation made by the Hon’ble Supreme Court in the case of *Ajay Kumar Choudhary (supra)* as well as observation made by the Single Judge (myself) in the case of *Kishore Kumar (supra)* and on examination of the facts of this case in hand, it is clear that though the charge sheet has been



served upon the petitioner but as on date, no order of extension of suspension dated 03.06.2024 and 14.08.2024 has been issued by the competent authority which has also been admitted by the learned counsel for the respondent-State. Therefore, on this ground alone, the petitioner is entitled to get revocation of his suspension.

9 Accordingly, the writ petition is allowed.

10 The orders of suspension dated 03.06.2024 and 14.08.2024 are quashed.

11 The petitioner's suspension is directed to be revoked forthwith.

12 However, the departmental enquiry will go on in accordance with law.

(Arvind Singh Chandel , J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.06.2025
Transmission Date	NA

