

**CWP-7660-2025**

-1-

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

131**CWP-7660-2025****Date of decision: 08.04.2025****ASHISH KAPOOR****....PETITIONER****Vs.****STATE OF PUNJAB AND ANOTHER****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. D.S. Patwalia, Senior Advocate with
Mr. A.S. Chadha, Advocate
for the petitioner.

Mr. Saurav Verma, Addl. A.G., Punjab.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of:

- (i) Charge-sheet dated 19.07.2023 (Annexure P-2) and consequent proceedings arising therefrom,
- (ii) Order dated 04.11.2022 (Annexure P-1) whereby he was placed under suspension under Rule 4(1) of the Punjab Civil Services (Punishment and Appeal) Rules, 1970, and
- (iii) Order dated 15.10.2024 (Annexure P-11) whereby Sh. B.C. Gupta, Additional District and Sessions Judge (retired) has been appointed as Inquiry Officer.

2. The petitioner joined Punjab Police Force as Inspector in 1993. He was promoted from time to time and in 2011 designated as Superintendent of Police. He was embroiled in FIR No. 17 dated 06.10.2022 under Sections 7 and 7-A of Prevention of Corruption Act, 1988 and Sections 120-B and 420 of IPC



registered at Police Station Vigilance Bureau (Phase-1), District SAS Nagar. The Competent Authority placed him under suspension vide order dated 04.11.2022. He was arrested and remained in custody for almost 3 months. He came to be implicated in 3 more FIRs i.e. (i) 004 dated 30.12.2022 under Sections 376(2)(a), 376(2)(b), 376(2)(d) and 376C IPC registered at Police Station Punjab State Crime, Mohali; (ii) 21 dated 30.05.2023 under Sections 13(1)(b) read with Section 13(2) of Prevention of Corruption Act, 1988 and Section 120-B IPC registered at Police Station Vigilance Bureau, Mohali; (iii) 208 dated 17.07.2023 under Sections 327, 384, 323, 294, 506, 201 and 120-B IPC registered at Police Station Zirakpur, District SAS Nagar. The respondents have appointed Mr. B.C. Gupta, Additional District and Sessions Judge (retired) as Inquiry Officer.

3. Mr. D.S. Patwalia, Senior Advocate submits that petitioner was placed under suspension vide order dated 04.11.2022 and a period of more than 2 years has passed away still he is under suspension. The respondent was duty bound to revoke/modify suspension order. As per Rule 4(5)(b) of Punjab Civil Services (Punishment and Appeal) Rules, 1970 (for short '1970 Rules'), suspension cannot continue without recording reasons in writing. Hon'ble Supreme Court in '***Ajay Kumar Choudhary Vs. Union of India through its Secretary and another***', (2015) 7 SCC 291 and '***State of Tamil Nadu Rep. By Secretary to Govt. (Home) Vs. Pramod Kumar IPS and another***', (2019) 2 SCC (L&S) 127 has clearly held that suspension should not continue after service of memorandum of charges/charge-sheet. If memorandum is served, reasoned order must be passed for extension of suspension. The respondent has not passed any order to extend period of suspension, thus, deserves to be reinstated.



Respondent has appointed Mr. B.C. Gupta as Inquiry Officer. He is more than 75 years old and overburdened with multiple inquiries, thus, it would not be possible for him to conclude inquiry within reasonable period. Any other judicial officer from the panel of State Government may be appointed.

4. Per contra, Mr. Saurav Verma, Addl. A.G., Punjab submits that as per Rule 4(5)(a) read with clause (b), the Competent Authority was not required to pass order of extension of suspension order. The suspension order continues until it is modified or revoked by Competent Authority. The petitioner has already been supplied all the relied upon documents and an independent Inquiry Officer has been appointed. Nevertheless, this Court, if finds appropriate, may appoint any other Inquiry Officer from the panel curated by State Government. During the course of hearing, he produced list of empanelled Officers.

5. I have heard arguments of both sides and with the able assistance of learned counsel perused the record.

6. From the perusal of record, it is evident that petitioner has been implicated in 4 FIRs. He has been suspended *qua* FIR No. 17 dated 06.10.2022 under Sections 7 and 7-A of Prevention of Corruption Act, 1988 & 120-B and 420 of IPC. The police has already presented challan and matter is under consideration of trial Court. The petitioner was placed under suspension vide order dated 04.11.2022. The said order has neither been modified nor revoked by Competent Authority. The petitioner has not been suspended *qua* other FIRs.

7. The petitioner is assailing charge-sheet on the ground that it is a case of mis-use of power and abuse of process of law. There is *mala-fide* on the part of respondents which is evident from the fact that petitioner has been implicated in multiple FIRs despite report of S.I.T. constituted by State.



8. The matter is at nascent stage. A judicial Officer has been appointed to inquire into the matter. Matter is not being inquired by a Departmental Officer, thus, there is no question of bias or mis-use of power.

It is settled proposition of law that Courts, at the stage of inquiry, should not interfere unless and until there are exceptional circumstances. The petitioner has been implicated in 4 FIRs and inquiry is at nascent stage, thus, this Court does not find it appropriate to invoke its writ jurisdiction under Article 226 of the Constitution of India to interfere with charge-sheet.

9. The claim of petitioner as well as stand of respondents *qua* suspension order hinges around reading of Rule 4(5) of 1970 Rules, thus, for the ready reference Rule 4 is reproduced as below:-

“4. Suspension- (1) The appointing authority or any other authority to which it is subordinate or the punishing authority or any other authority empowered in that behalf by the Governor by general or special order may place a government employee under suspension-

(a) where a disciplinary proceeding against him is contemplated or is pending; or

(b) where a case against him in respect of any criminal offence is under investigation, inquiry or trial;
provided where the order of suspension is made by an authority lower than appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made

(2) A Government employee shall be deemed to have been placed under suspension by an order of appointing authority-

(a) with effect from the date of his detention, if he is detained in custody whether on a criminal charge or otherwise for a period exceeding forty - eight hours;



(b) with effect from the date of his conviction, if in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

Explanation:- *The period of forty - eight hours referred to in clause (b) of this sub rule shall be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.*

(3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government employee under suspension is set aside in appeal or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government employee is set aside or declared or rendered void in consequence of or by a decision of a court of law and the punishing authority. on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal removal or compulsory retirement was originally imposed, the Government employee shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

(5) (a) An order of suspension made or deemed to have been made under this rule shall continue to remain in force



until it is modified or revoked by the authority competent to do so.

(b) Where a government employee is suspended or is deemed to have been suspended. Whether in connection with any disciplinary proceeding or otherwise, and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the Government employee shall continue to be under suspension until the termination of all or any of such proceedings.

(c) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority which made or is deemed to have made the order by any authority to which that authority is subordinate.”

[Emphasis Supplied]

10. From the perusal of above-quoted Rule, it is evident that order of suspension made by Competent Authority continues to remain in force until it is modified or revoked by the Competent Authority. An employee may be subjected to one or more disciplinary proceedings. An officer may be suspended on account of pending disciplinary proceedings or where he is facing criminal proceedings in the form of investigation, inquiry or trial. He is deemed to be suspended if he is detained in custody on a criminal charge or otherwise for a period exceeding 48 hours.

As per Mr. Patwalia, the respondent was bound to pass a reasoned order to extend suspension order after issuing charge-sheet. He has supported his contention with the judgment of Supreme Court in ***Ajay Kumar Choudhary (Supra)*** as well as ***Pramod Kumar (Supra)***. In the afore-cited judgments, the Court was not adverting to specific Rule like in hand and has held that



suspension must be for a short duration. In ***Pramod Kumar (Supra)***, the delinquent remained under suspension for more than 6 years. In ***Ajay Kumar Choudhary (Supra)***, though the Court held that currency of suspension order should not extend beyond 3 months if within this period charge-sheet is not served, and if charge-sheet is served, a reasoned order must be passed for the extension of suspension, yet, in the said case, the suspension order was not set aside on the ground that delinquent was served charge-sheet.

In the case in hand, the petitioner is governed by 1970 Rules, thus, matter needs to be adjudicated in the light of 1970 Rules. As per Rule 4(5)(a), order of suspension continues until it is modified or revoked by Authority competent to do so. Clause (b) of Rule 4(5) deals with a situation arising on account of more than one disciplinary proceedings e.g. an employee may be implicated in 3 different criminal cases and department may start separate departmental proceedings *qua* each criminal proceeding. Second or third departmental proceeding may be initiated during the tenure of suspension in connection with first disciplinary proceeding. An officer may be placed under suspension *qua* each disciplinary proceeding. As per clause (b) of Rule 4(5), the Disciplinary Authority may for reasons to be recorded in writing direct that government employee shall continue to be under suspension until the termination of all or any of such departmental proceedings. Meaning thereby, it is discretion of the Competent Authority to place a delinquent employee under suspension *qua* one proceeding or some or all of them. Order of suspension *qua* second or third proceeding does not affect order passed *qua* first proceeding. The stand of petitioner that as per Rule 4(5)(b) of 1970 Rules, the respondent was bound to pass reasoned order after issuance of charge-sheet is

**CWP-7660-2025**

-8-

unsustainable. If contention of petitioner is accepted, clause (a) of Rule 4(5) would lose its significance which is impermissible in law.

11. Now the question arises of the reasonable period in terms of judgments cited by Mr. Patwalia. The petitioner was placed under suspension in November' 2022 and department served him charge-sheet in July' 2023. The Inquiry Officer has already initiated departmental proceedings, thus, it cannot be called that there is inaction or inordinate delay on the part of respondent warranting interference of this Court.

12. The petitioner is further praying that another Inquiry Officer from the panel curated by respondent may be appointed. No prejudice is going to be caused to State if any other Inquiry Officer from the panel curated by the State Government is appointed. Mr. Verma, during the course of hearing, has submitted panel of officers curated by State Government.

In the wake of statement of both sides as well as considering the facts and circumstances, this Court finds it appropriate to substitute already appointed Inquiry Officer by Mr. Justice (Retired) A.N. Jindal.

13. Disposed of in above terms.

14. The petitioner has been supplied all the requisite documents, thus, he is expected to co-operate with the Inquiry Officer. The inquiry officer is also expected to expedite the matter and complete proceedings as early as possible. At the first instance, the petitioner shall appear before Inquiry Officer on 16.04.2025 at 10.00 A.M. and thereafter as directed by Inquiry Officer.

08.04.2025
manoj

[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No