

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (S) No. 2194 of 2020**

Satya Prakash, aged about 48 years, Son of Late Abhay Kumar,
Residing at C/o Jai Prakash, Kali Shankar Street, Hindpiri, Near
Marwari College, Ranchi, P.O. & P.S. Hindpiri, District- Ranchi,
Jharkhand

... Petitioner

-Versus-

1. State of Jharkhand
2. Chief Secretary, Government of Jharkhand, Ranchi, P.O. Dhurwa, P.S. Jagannathpur, Dist. Ranchi, Jharkhand
3. Principal Secretary, Personnel, Administrative Reforms and Rajbhasha Department, Government of Jharkhand, Ranchi, P.O. Dhurwa, P.S. Jagannathpur, Dist. Ranchi, Jharkhand
4. Joint Secretary, Personnel, Administrative Reforms and Rajbhasha Department, Government of Jharkhand, Ranchi, P.O. Dhurwa, P.S. Jagannathpur, Dist. Ranchi, Jharkhand
5. Divisional Commissioner, North Chotanagpur Division, Hazaribagh, P.O. & P.S. Hazaribagh, Dist. Hazaribagh, Jharkhand
6. Deputy Commissioner, Gumla, P.O., P.S. & District- Gumla, Jharkhand

... Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner : Mr. Diwakar Upadhyay, Advocate
For the Respondent-State : Mrs. Laxmi Murmu, S.C.-V

04/10.03.2021. Heard Mr. Diwakar Upadhyay, learned counsel for the petitioner and Mrs. Laxmi Murmu, learned counsel for the respondent-State.

2. This writ petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been heard on merit.

3. The petitioner has preferred this writ petition for quashing the notification dated 01.07.2020, whereby, the petitioner has been put under suspension under Rule 9 of the Jharkhand Government Servants (Classification, Control and Appeal) Rules, 2016.

4. The petitioner was posted as Circle Officer, Chainpur, Gumla on 31.07.2017. A notification dated 01.07.2020 issued by the Joint Secretary, Personnel, Administrative Reforms and Rajbhasha Department, Government of Jharkhand was served to the petitioner, whereby, the petitioner has been put under suspension under Rule 9 of the Rules, 2016 alleging therein that on the recommendation of the Deputy Commissioner, Gumla vide his letter dated 06.06.2020 on the ground of non-residing at the Circle Headquarter, Chainpur and on a charge of unauthorisedly checking and collecting fine from vehicles outside his jurisdictional area, a recommendation has been made to initiate a departmental proceeding against the petitioner. Aggrieved with this, the petitioner has preferred the writ petition.

5. Mr. Diwakar Upadhyay, learned counsel for the petitioner submits that without following the principles of natural justice, the suspension order has been passed. He further submits that due to that the petitioner has been put irreparable loss as his prestige is downgraded in the society. He also submits that more than 8 months' period has lapsed and in spite of that the petitioner is still under suspension and no revocation order has been passed. He further submits that the case of the petitioner is covered in light of the judgment rendered by the Hon'ble Supreme Court in the case of ***Ajay Kumar Choudhary v. Union of India through its Secretary & Others***, reported in **(2015) 7 SCC 291**.

6. Paragraphs 8, 9 and 14 of the said judgment are quoted herein below:

"8. The learned Senior Counsel for the appellant, however, has rightly relied on a series of judgments of this Court, including O.P. Gupta v. Union of India, where this Court has enunciated that the suspension of an employee is injurious to his interests and must not be continued for an unreasonably

long period; that, therefore, an order of suspension should not be lightly passed.

9. Our attention has also been drawn to K. Sukhendar Reddy v. State of A.P., which is topical in that it castigates selective suspension perpetuated indefinitely in circumstances where other involved persons had not been subjected to any scrutiny. Reliance on this decision is in the backdrop of the admitted facts that all the persons who have been privy to the making of the office notes have not been proceeded against departmentally.

XXX

XXX

XXX

14. More recently, the European Convention on Human Rights in Article 6(1) promises that:

"6. (1) in the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time..."

and in its second sub-article that:"

6. (2) Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law."

7. Per contra, Mrs. Laxmi Murmu, learned counsel for the respondent-State submits that there is serious allegation against the petitioner and that is why the petitioner has been put under suspension. She further submits that now the departmental proceeding has already been initiated and that will be completed within a time frame and the petitioner may cooperate in the department proceeding.

8. Having heard learned counsel appearing on behalf of the parties, the Court finds that admittedly the petitioner was suspended vide notification dated 01.07.2020. It is also an admitted fact that the enquiry has not been completed as yet. In view of the resolution of the Personnel and Administrative Department dated 26.12.2012, the enquiry needs to be completed within 105 days. Rule 9(6)(C) has not been exercised by the authority for extending the suspension order with regard to the petitioner. A reference in this regard may be made in case of **State of T.N. v. Promod Kumar** reported in **(2018) 17 SCC 677**. Paragraph nos.24, 25,

26 and 27 of the said judgment are quoted herein below:

"24. *The first respondent was placed under deemed suspension under Rule 3(2) of the All India Services Rules for being in custody for a period of more than 48 hours. Periodic reviews were conducted for his continuance under suspension. The recommendations of the Review Committees did not favour his reinstatement due to which he is still under suspension. Mr. P. Chidambaram, learned Senior Counsel appearing for the first respondent fairly submitted that we can proceed on the basis that the criminal trial is pending. There cannot be any dispute regarding the power or jurisdiction of the State Government for continuing the first respondent under suspension pending criminal trial. There is no doubt that the allegations made against the first respondent are serious in nature. However, the point is whether the continued suspension of the first respondent for a prolonged period is justified.*

25. *The first respondent has been under suspension for more than six years. While releasing the first respondent on bail, liberty was given to the investigating agency to approach the Court in case he indulged in tampering with the evidence. Admittedly, no complaint is made by CBI in that regard. Even now the appellant has no case that there is any specific instance of any attempt by the first respondent to tamper with evidence.*

26. *In the minutes of the Review Committee meeting held on 27- 6-2016, it was mentioned that the first respondent is capable of exerting pressure and influencing witnesses and there is every likelihood of the first respondent misusing office if he is reinstated as Inspector General of Police. Only on the basis of the minutes of the Review Committee meeting, the Principal Secretary, Home (SC) Department ordered extension of the period of suspension for a further period of 180 days beyond 9-7-2016 vide order dated 6-7-2016.*

27. *This Court in Ajay Kumar Choudhary v. Union of India has frowned upon the practice of protracted suspension and held that suspension must necessarily be for a short duration. On the basis of the material on record, we are convinced that no useful purpose would be served by continuing the first respondent under suspension any longer and that his reinstatement would not be a threat to a fair trial. We reiterate the observation of the High Court that the appellant State has the liberty to appoint the first respondent in a non-sensitive post."*

9. In view of the well settled provision of law, it is well settled that the suspension must necessarily be for a short duration. In this case, Rule 9(6) (C) has not been invoked for extending the period of suspension or revocation. However, eight weeks' further time is allowed to the respondent-

State to conclude the departmental proceeding. If the departmental proceeding is not concluded within the aforesaid period, the order of suspension shall automatically be revoked.

10. With the aforesaid observation and direction, the writ petition stands disposed of.

(Sanjay Kumar Dwivedi, J.)

Ajay/