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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

ON THE 14th OF DECEMBER, 2022

WRIT PETITION No. 28339 of 2022

BETWEEN:-

**RAJESH PAWAIYA S/O SHRI MADANLAL PAWAIYA,
AGED ABOUT 56 YEARS, OCCUPATION: SERVICE (SUB
ENGINEER) 173, OMAXE HILLS, RAU BYPASS ROAD,
INDORE (MADHYA PRADESH)**

.....PETITIONER

***(SHRI ANAND SINGH BAHRAWAT, LEARNED COUNSEL FOR THE
PETITIONER.)***

AND

- 1. THE STATE OF MADHYA PRADESH THROUGH
SECRETARY VALLABH BHAWAN, MANTRALAYA,
BHOPAL (MADHYA PRADESH)**
- 2. ENGINEER IN CHIEF RURAL ENGINEERING
SERVICES DEPARTMENT VINDHYACHAL
BHAWAN BHOPAL (MADHYA PRADESH)**
- 3. CHEIF ENGINEER RURAL ENGINEERING
SERCIVE DEPARMENT INDORE DIVISION
INDORE (MADHYA PRADESH)**
- 4. COMMISSIONER INDORE DIVISION NEAR
GANDHI HALL INDORE (MADHYA PRADESH)**

.....RESPONDENTS

***(SHRI PRADYUMNA KIBE, LEARNED GOVERNMENT ADVOCATE
APPEARING ON BEHALF OF ADVOCATE GENERAL.)***

.....
This petition coming on orders this day, the court passed the following:

ORDER

Heard finally with the consent of the learned counsel for the parties.

This petition has been filed by the petitioner under Article 226 of the

Constitution of India seeking the following relief: -

â€œ7. **RELIEF PRAYED FOR:** -

In view of the facts and circumstances of the case the petitioner most respectfully prays that this Honâ€™ble Court may kindly be pleased to allow this Petition and pass following orders: -

(A) The quash the Suspension order dated 08/09/2020, and to quash all consequential action taken on the basis of impugned Suspension order dated 08/09/2020 and to pay salary of suspension period immediately.

(B) That, the respondents may kindly be directed to consider the case of the petitioner for revocation of suspension order in the light of the judgment delivered by the Honâ€™ble Apex Court in the case of Ajay Kumar Choudhary and in the light of the circular issued by the GAD dated 28/01/2013 and 09/04/2019.

(C) to call the relevant records of the case from the respondents.

(D) To award the costs of this petition from the Respondents.

(E) Any other relief which this Honâ€™ble Court may deem fit may also be given to the Petitioner.â€

2. The grievance of the petitioner is that his services were suspended on 08.09.2020, but despite repeated requests, suspension order has not been revoked.

3. The petitioner has also relied upon a decision rendered by this Court in the case of Balmukund Gaud v. State of M.P. & others, Writ Petition No.25889/2021, dated 03.12.2021, wherein this Court has already relied upon a decision rendered by the Supreme Court in the case of Ajay Kumar Choudhary v. Union of India through its Secretary and another reported in (2015) 7 SCC 291. Thus, it is submitted that in the present case also, representation of the petitioner may be directed to be decided by the respondents, in accordance with law and in the light of the aforesaid order passed by this Court as also by the Supreme Court.

4. The prayer is not opposed by the counsel for the respondent / State; and it is submitted that the representation of the petitioner shall be decided by the Competent Authority of the respondents, in accordance with law.

5. On due consideration of submissions and on perusal of the record as also the order passed by the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary (supra), it is found that in para 21 the Hon'ble Supreme Court has held 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 concerned person 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.

6. In view of the aforesaid, it is apparent that after filing of the charge-sheet, it is necessary for the respondents to pass a reasoned order for extension of his suspension. In view of the same, the petition is hereby disposed of with a direction to the petitioner to file a fresh representation along with all the relevant documents to the Commissioner, Indore Division, Indore (respondent No.4), who shall decide the same, in accordance with law, in the light of the order passed by the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary** (supra) within a further period of **four weeks** from the date of receipt of certified copy of this order. While deciding the representation of the petitioner, the respondent shall also take into consideration order dated **19.10.2020** (Annexure P/14) passed by this Court in **Writ Petition No.1035/2020 (Ajmer Singh Dudwa v. The State of Madhya Pradesh & others)**.

It is made clear that this Court has not reflected upon the merits of the case.

With the aforesaid direction, Writ Petition No.28339/2022 stands **disposed of**.

All the other pending interlocutory applications, if any, shall stand **disposed of**.

(SUBODH ABHYANKAR)
JUDGE