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**(2011) 05 RAJ CK 0089**

**Rajasthan High Court (Jaipur Bench)**

**Case No:** Civil Writ Petition No. 2414 of 2007

Ramesh Kumar Goswami

APPELLANT

Vs

State and Others

RESPONDENT

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**Date of Decision:** May 3, 2011

**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 304B, 390, 406, 498A
- Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 - Rule 13(5)

**Hon'ble Judges:** Ajay Rastogi, J

**Bench:** Single Bench

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**Judgement**

Ajay Rastogi, J.

Counsel submits that Petitioner was placed under suspension vide order dt. 22/12/2006 upon a criminal case being registered against him for offences punishable under Sections 498A, 406, 304B, 390, IPC, IPC. Counsel submits that pendent criminal case, the charge has now been framed but no effective progress has taken place and criminal case is lingering on and may take its own course while he is facing agony of suspension for more than four years having rolled by now.

2. Counsel submits that State Government issued circulars dt. 07/07/2010 and dt. 12/01/2011 constituting a Committee to consider cases of such public servants who are placed under suspension due to criminal cases being registered under Prevention of Corruption Act/Indian Penal Code and are continuing under suspension for last more than three years, for review/reconsideration and pursuant thereto, the Committee has not taken a decision for review of suspension under Rule 13(5) of Rajasthan Civil Services (CCA) Rules, 1958.

3. Counsel placed reliance on a judgment of this Court in Prem Prakash Mathur v. State of Rajasthan and Ors. 2005 (9) RDD 3962 (Raj.) and Vishnu Kr. Gupta v. State 2009 WLC (UC) 701. Counsel submits that the Circular dt. 10/08/2001 issued by State Govt. will not supersede statutory requirement to be complied with by the authority

Under Rule 13(5) of CCA Rules.

4. Without going into merits, writ petition is disposed of with the direction to the Petitioner to make a fresh representation for reconsideration/review of the order of suspension impugned, pursuant to Circulars dt. 07/07/2010 and dt. 12/01/2011 before competent authority Under Rule 13(5) of CCA Rules, who may independently examine the same without being influenced by the instructions dt. 10/08/2001 and may also take note of judgments (supra) and pass speaking order within three months thereafter and decision may be communicated to the Petitioner who if still feels aggrieved, will be free to avail the remedy under law.