

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 360 OF 2021  
(Subject – Direction / Suspension)**

**DISTRICT : BEED**

**Shri Kishan Deorao Sangle,** )  
Age : 48 years, Occu. : Tehsildar, )  
Dist. Beed, )  
R/o Ekuraka, Post Saarni (Saangwi), )  
Tq. Kaij, Dist. Beed. Mob. 9527999832.)

**.. APPLICANT**

**V E R S U S**

- 1) **The Additional Chief Secretary,** )  
Department of Revenue & Forestry,)  
Maharashtra State Ministry, )  
Mantralaya, Mumbai- 32. )
- 2) **Divisional Commissioner Office,** )  
Aurangabad, Revenue Department,)  
Aurangabad. )
- 3) **Tahsildar,** Tehsil Office, )  
Wadwani, Dist. Beed -431122. )

**.. RESPONDENTS**

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**APPEARANCE** : Shri S.S. Tandale, Advocate for the Applicant.

: Smt. Deepali S. Deshpande, Presenting Officer  
for Respondents.

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**CORAM** : **SHRI BIJAY KUMAR, MEMBER (A).**

**DATE** : **10.12.2021.**

**O R D E R**

1. This original application has been filed by the applicant Shri Kisan Deorao Sangle, R/o Beed, on 09.07.2021 invoking the

provisions of Section 19 of the Administrative Tribunal Act, 1985, thereby, challenging the suspension order dated 08.03.2021 passed by the respondent No. 2, the Divisional Commissioner, Aurangabad against the applicant.

2. Before filing the present Original Application, the applicant had made representations to respondent No. 2 dated 11.05.2021 and 27.05.2021 by R.P.A.D. and dated 01.06.2021 and 16.06.2021 by delivery of the same by hand. By the representations made, the applicant had requested the respondent No. 2 to revoke the suspension order on following grounds; -

*“ Suspension period has been more than 90 days and within this period of 90 days, no memorandum of charges have been served on him, therefore, as per provisions of Government Resolution issued by the General Administration Department bearing No. निप्रआ-१११८/प्र.क.११/११अ, दि. ०९.०७.२०१९, it has become obligatory on part of the respondent to revoke the suspension order.”*

3. The applicant has sought relief in terms of para Nos. 9 (a) to 9 (e) of the Original Application, which is being reproduced below for ready reference :-

**“9) Reliefs Sought**

- a) *The Original Application may kindly be allowed.*
- b) *The Respondent No. 2 may kindly be directed to take action on applicant’s representation dated 01.06.2021 and 16.06.2021*
- c) *Respondent No. 3 may kindly be directed to pay regular salary as per rule.*
- d) *The Hon’ble Tribunal be pleased to direct the respondent no. 2 to revoke the Suspension order dated 08.03.2021 with effect from 10.12.2020 which is in violation of law laid down by the Hon’ble Apex Court in C.A. 1912/2015 and allow him to join duty.*
- e) *Any other relief to which the applicant may kindly be granted in his favour”*

**4. Facts of the matter-**

While the applicant was working as a Naib Tahsildar at Tahsil Office Beed, Anti-Corruption Bureau of the State Government laid a successful trap against the applicant for demanding a bribe of Rs. 30,000/- in a case of illegal mining. The applicant was arrested on 09.12.2020 at 16.56 hours and FIR No. 0251 of 2020 was filed against him on 10.12.2020. The applicant was released on bail on 16.12.2020. Therefore, the respondent No. 2 had placed him under deemed suspension with effect from 10.12.2020 vide an order passed on 08.03.2021

exercising powers under Rule 4 (2) (a) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 (in short "*The Rules, 1979*"). The contention of the applicant is that the respondent No. 2 has not revoked his suspension after 3 months and therefore, the same is violative of provisions of G.R. dated 09.07.2019 (*supra*) and the directives of Hon'ble Apex Court in **Civil Appeal No. 19.12.2015, Ajay Kumar Choudhary vs. Union of India & Anr.**

5. **Pleadings** - The learned Presenting Officer submitted affidavit in reply on behalf of all the three respondents on 23.09.2021. The learned counsel for the applicant did not opt for filing rejoinder affidavit. Thus pleadings were complete and the matter was fixed for final hearing, which took place on 20.10.2021 and 02.12.2021. During the arguments, the learned Presenting Officer has argued that the ratio in **Ajay Kumar Choudhary Vs. Union of India** was different as there was no case under Prevention of Corruption Act. He also cited following two case laws :-

- (i) *State of Punjab Vs. Chaman Lal Goyal [1995 (2) S.C.T. 343]*
- (ii) *Raghubir Sing Vs. State of Bihar ([1986 (4) SCC 481]*

6. **Analysis of Facts** - The present matter needs to be examined in the light of judgments / orders cited by the learned Advocate for the Applicant and the Respondents.

(a) The learned Advocate for the Applicant has cited Judgment passed by the Hon'ble Apex Court in case of **Ajay Kumar Chaudhary Vs. Union of India in Civil Appeal No. 1912 of 2015 (Arising out of SLP No. 31761 of 2013)**. In Para 86 of the judgment, the Hon'ble Supreme Court has listed 15 propositions to serve as guidelines, the most quoted among them is the proposition listed at serial number 14 which is reproduced as under-

*“14. We, therefore, direct that the currency of Suspension Order should not extend beyond three month if within this period the Memorandum of Charges / Charge- sheet is not served a reasoned order must be passed for extension of the suspension. ....We recognize that previous constitution benches have been 11 O.A.No. 69/2020 reluctant to quash proceedings on ground of delay, and to set time limit to their duration. However, the imposition of time limit has not been discussed in prior case laws, and would not be contrary to the interest of justice.....”*

(b) However, it is relevant to refer to the case law in the case of **State of Tamil Nadu Vs. Pramod Kumar and another in Civil Appeal No. 8427-82428 of 2018** dated,

August 21, 2018, the Hon'ble Supreme Court had observed in Para 23 of the judgment as under-

*“This Court in Ajay Kumar Chaoudhary Vs. Union of India (2015) 7 SCC 291 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 threat to a fair trial.....”*

However, in the instant matter, the Hon'ble Supreme Court has not strictly applied the proposition of three months as limit of period for suspension as stipulated in judgment in **Ajay Kumar Chaoudhary Vs. Union of India (2015) 7 SCC 291.**

(c) A reference is also made to a judgment by Hon'ble High Court of **Uttarakhand at Nainital in Special Appeal No. 576 of 2019, Naresh Kumar Vs. State of Uttarakhand and Ors.** delivered on June 18, 2019. It has been observed by the Hon'ble High Court that :-

*“However, when a smaller Bench of the Supreme Court lays down a proposition contrary to and without noticing the ratio decidendi of the earlier larger Benches, such a decision will not become the law*

*declared by the Supreme Court so as to have a binding effect under Article 141 of the Constitution on all the Courts within the Country.”*

A number of judgments of Hon'ble Supreme Court have been quoted by the Hon'ble High Court of Uttarakhand at Nainital to arrive at its observation mentioned at Para No. 34 of the judgment, which is as under, though have to be read for appreciating the context and essence that runs through all the quoted case laws-

*“ The attention of the Supreme Court, in Ajay Kumar Chaoudhary, [Ajay Kumar Chaoudhary Vs. Union of India (2015) 7 SCC 291], was drawn to its earlier judgments in Asok Kumar Aggrawal, Sanjiv Rajan, L. Srinivasan and Deepak Kumar Bhalla, wherein it was held that mere delay in conclusion of disciplinary proceedings or criminal cases or long period of suspension would not render the order of suspension invalid.”*

(d) Order passed by the Principal Bench of the Maharashtra Administrative Tribunal, Mumbai in O.A. No. 35/2018 in matter of Shri Dilip Jagannath Ambilwade Vs. State of Maharashtra and another - in this matter the Principal Bench (Coram: Hon'ble Justice A. H. Joshi, the

then Chairman) had passed orders as per proposition laid out by Hon'ble Supreme Court in Ajay Kumar Chaoudhary Vs. Union of India (2015) 7 SCC 291.

(e) The learned Presenting Officer has not elaborated as to which part of the judgments in **State of Punjab Vs. Chaman Lal Goyal [1995 (2) S.C.T. 343]** and of **Raghubir Sing Vs. State of Bihar ([1986 (4) SCC 481]** cited by him supports the arguments advanced on behalf of the respondents.

(f) Attention of the learned Presenting Officer was drawn towards following part of Government Resolution issued by the General Administration Department bearing No. निप्रआ-१११८/प्र.क.११/११अ, दि. ०९.०७.२०१९, which reads as under :-

“ या आदेशातील तरतुदीमुळे या विषयावरील संदर्भ १ व २ येथील आदेशांतील तरतुदी या आदेशाच्या मर्यादित सुधारण्यात आल्या आहेत असे समजण्यात यावे.”

Despite this, the learned Presenting Officer has referred to provisions of Government Resolution of General Administration Department bearing No. निप्रआ-११११/प्र.क. ८६/११-अ, दि. १४.१०.२०११, which stand amended by G.R. No.



निप्रआ-१११८/प्र.क.११/११अ, दि. ०९.०७.२०१९ (supra). Moreover, no cogent reason has been given for not complying with the provisions of Government Decision No. 1 (i) to (iii) in the said G.R. dated 09.07.2019 (supra).

7. **Conclusion** :- The respondents have, admittedly served Memorandum of Charges on the applicant on 28.07.2021 after passing deemed suspension order dated 08.03.2021. The respondent No. 1 has also taken stock of facts in this case and approved subsistence allowance at increased rate to the applicant after lapse of three months of suspension by issuing order dated 28.07.2021. However, Suspension Review Committee has not reviewed continuance of suspension order after lapse of three months. Therefore, following order is being passed :-

### **ORDER**

The Original Application No. 360 of 2021 is allowed in following terms :-

(A) Respondent No. 2 is, hereby, directed to take decision on applicant's representations dated 01.06.2021 and 16.06.2021 within a period of three weeks from the date of this order.

(B) Respondent No. 3 is, hereby, directed to pay subsistence allowance, as per approved rates within a period of three weeks from the date of this order, if not already paid, and to pay salary as per rules on revocation of suspension.

(C) Respondent No. 2 is hereby, directed to take action as per provisions of Government Resolution of General Administration Department, Govt. of Maharashtra, bearing No. निप्रआ-१११८/प्र.क.११/११३, दि. ०९.०७.२०१९, within a period of three weeks from the date of this order.

(D) No orders as to costs.

**PLACE : AURANGABAD.**  
**DATE : 10.12.2021.**

**(BIJAY KUMAR)**  
**MEMBER (A)**

**KPB/S.B. O.A. No. 360 of 2021 BK 2021 Direction/ Suspension**