

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 374 OF 2015**

DIST. : LATUR

Appasaheb s/o Bhanudas Shinde,  
Age. 50 years, Occ. Service,  
R/o Matola, Tq. Ausa,  
Dist. Latur.

-- APPLICANT

**VERSUS**

The State of Maharashtra,  
Through Sub Divisional Officer,  
Latur.

(Copy to be served on  
Presenting Officer, M.A.T.,  
Aurangabad)

-- RESPONDENT

-----  
APPEARANCE : Shri M.V. Salunke, learned Advocate for  
the applicant.  
: Shri V.R. Bhumkar, learned Presenting  
Officer for respondent.  
-----

**CORAM : JUSTICE M.T. JOSHI, VICE CHAIRMAN  
AND  
ATUL RAJ CHADHA, MEMBER (A)**

**DATE : 17<sup>th</sup> October, 2018**  
-----

**ORAL - ORDER**

*(Per : Justice M.T. Joshi, Vice Chairman)*

Heard Shri M.V. Salunke, learned Advocate for the applicant  
and Shri V.R. Bhumkar, learned Presenting Officer for  
respondent.

2. By the present Original Application, the applicant is seeking following reliefs :-

*“A) The Original Application may kindly be allowed with cost.*

*B) Issue appropriate order thereby quash and set aside impugned termination order dtd. 5.2.2015 passed by learned Sub-Divisional Officer, Latur.”*

3. Admitted facts on record would show that the present applicant, who was working as a Talathi, was convicted by the special A.C.B. Court at Latur for accepting bribe for giving favour in the official work u/s 7 and 13 (1) (d) punishable u/s 13 (2) of the Prevention of Corruption Act, 1988. He was sentenced to suffer R.I. for two years and to pay fine of Rs. 2,000/- and in default, to suffer R.I. for three months. The Sub Divisional Officer, Latur, the appointing authority, vide impugned order dtd. 5.2.2015 (Annex. A. 4 page 20) ordered that the applicant shall be terminated from the service. The S.D.O., Latur relied on the circulars dtd. 12.6.1986 and 29.12.1992 while passing the said order.

4. Learned Advocate submits that the Circular dtd. 29.12.1992 (page 28) would show that before passing the impugned order, it was mandatory on the part of the S.D.O., Latur to give

opportunity of making representation to the employee on the proposed punishment and after considering the said representation, a decision regarding punishment is to be taken. He submits that in the present case as no opportunity of making representation was given to the applicant, the impugned order of S.D.O., Latur is vitiated.

5. Learned P.O. submits that the Circulars would also confirm that such employee, who is convicted for the offences is liable to be punished and only issue involved in the present matter is of granting of opportunity to file representation regarding the proposed punishment. He submits that merely for this technicalities the present O.A. cannot be allowed and fresh opportunity to the applicant to make representation on the punishment, which has been earlier imposed, can be given and the S.D.O., Latur can be directed to pass fresh order regarding punishment upon going through the said representation of the applicant.

6. Alternatively, learned Advocate for the applicant submits that, in fact, in Criminal Appeal filed before the Hon'ble High Court the conviction is stayed. Learned Advocate submits that the prayer clause (B) in the criminal appeal was regarding suspension of conviction and that has been granted by the

Hon'ble High Court. Reading of the entire order of Hon'ble High Court (Annex. A. 2 page 15), however, would show that specifically the conviction is not stayed. First introductory sentence of the order would show that the application was for suspension of substantive sentence only. Therefore, on that count, no relief can be granted. In the circumstances, we pass the following order :-

**ORDER**

- (i) The present Original Application is disposed of without any order as to costs.
- (ii) The respondent, S.D.O., Latur, is hereby directed to issue letter to the applicant proposing the punishment by sending the same by R.P.A.D. on the address given by the applicant in the present O.A. within a period of 3 weeks from the date of this order.
- (iii) Upon receipt of representation from the applicant regarding the proposed punishment, the S.D.O., Latur to consider the said representation and pass fresh order within a period of 4 weeks from receipt of such representation from the applicant and communicate the said order to the applicant in writing.

**(ATUL RAJ CHADHA)**  
**MEMBER (A)**

**(M.T. JOSHI)**  
**VICE CHAIRMAN**

**Place : Aurangabad**

**Date : 25.4.2018**

ARJ O.A. NO. 374 OF 2015 (D.B.) (TERMINATION)