

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

**ORIGINAL APPLICATION NO. 762 OF 2023
(Subject – Suspension)**

DISTRICT : BEED

Dr. Suryakant S/o Arjunrao Sable,)
Age : 53 years, Occu. : Service as)
Civil Surgeon, Civil Hospital, Beed,)
R/o : “DHANVANTARI”, Civil Surgeon)
Bungalow, Barshi Road, Beed, Dist. Beed.)-- **APPLICANT**

V E R S U S

1. **The State of Maharashtra,**)
Through: The Secretary,)
Public Health Department,)
G.T. Hospital Building Sankul,)
10th Floor, Mantralaya, Mumbai-32.)
2. **The Commissioner of Health Services,**)
Directorate of Health Services, 8th Floor,)
Arogya Bhavan, St. Georges Hospital)
Compound, P. D'mello Road, Mumbai-1.)
3. **The Director of Health Services,**)
Arogya Bhavan, St. Georges Hospital)
Compound, P. D'mello Road, Mumbai-1.)
4. **The Deputy Director of Health Services,**)
Latur, M.I.D.C. Latur,)
Maharashtra-413531.)-- **RESPONDENTS**

APPEARANCE : Shri S.D. Joshi, Counsel for the
Applicant.
: Shri M.S. Mahajan, Chief Presenting
Officer for respondent authorities.

CORAM : **Hon'ble Justice Shri P.R. Bora, Vice Chairman**

DATE : **05.10.2023.**

ORDER

1. Heard Shri S.D. Joshi, learned counsel for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent authorities.

2. Aggrieved by the order of suspension dated 7.8.2023 issued by respondent no. 1 against him, the applicant has preferred the present Original Application seeking quashment of the said order.

3. On 21.10.2022 the applicant was transferred to the post of Civil Surgeon, District Hospital at Beed. Prior to that he was working as Medical Superintendent at Rural Hospital, Majalgaon, Dist. Beed.

4. The order of suspension dated 7.8.2023 reveals that the applicant has been suspended in contemplation of the departmental enquiry against him, in the matter of irregularities allegedly occurred in recruitment of the contractual employees. The applicant has emphatically denied the allegation so raised against him. According to the applicant, recruitment of contractual employees has been made strictly in accordance with the prevailing rules and regulations. It is the contention of

the applicant that, wrong information seems to have been provided to the Hon'ble Members of the legislative assembly, as well as, to the Hon'ble Minister, which has resulted in issuance of the impugned order. It is the further contention of the applicant that based on the said false and concocted information, questions were raised in the legislative assembly and without calling the complete information in that regard the Hon'ble Minister for Health Services declared on the floor of the legislative assembly that the applicant is suspended.

5. Shri S.D. Joshi, learned counsel appearing for the applicant submitted that under the pressure of the Members of the legislative assembly, the Hon'ble Health Minister announced that the applicant is suspended and since the Hon'ble Health Minister made such announcement, the impugned order came to be issued on 7.8.2023. Learned counsel further submitted that the allegations made by the concerned Members of the legislative assembly/council were based on the news published in some newspaper. Learned counsel submitted that the learned Members should not have blindly relied on the news items published in the newspapers without ascertaining the veracity of the allegations raised in the said news items. Learned counsel further submitted that three members'

committee, which came to be constituted on 7.8.2023 itself for conducting enquiry into the allegations made against the applicant, after having conducted such enquiry submitted its report to the Government with a clear finding that monetary transactions do not seem to have taken place in the recruitment of contractual employees.

6. Learned counsel further submitted that the applicant is having a very excellent service record and his work has been always appreciated by the Government, as well as, by the public at large. Learned counsel further submitted that if such an officer is suspended without any concrete material therefor such officer gets demoralized and his image in the society also gets tarnished. Learned counsel further submitted that the Government certainly has right to put its employee under suspension in contemplation of the departmental enquiry, however, such powers are not unfettered. Learned counsel further submitted that for issuance of order of suspension against the employee, there must be some concrete material available and the competent authority shall record its satisfaction that the material available against the Government employee is sufficient for directing his suspension during pendency of the departmental enquiry against him. Learned

counsel submitted that in the present matter when the Hon'ble Minister announced on the floor of assembly that he is suspending the applicant, there was no material before the Hon'ble Minister so as to record even a prima-facie opinion that suspension was necessary in this case. Learned counsel submitted that only under the pressure of Members of the assembly, such announcement was made by the Hon'ble Minister. Learned counsel further submitted that on the same day the Government appointed a committee consisting of 3 members to enquire into the irregularities allegedly happened in the recruitment of the contractual employees through Maharashtra Vikas Group. Learned counsel submitted that, when the decision was taken by the government to conduct an inquiry and hence has constituted the committee therefor, the Hon'ble Minister must have waited till the decision of the said committee is received.

7. The learned counsel further submitted that, the said committee in its final report has recorded an unambiguous finding that, no financial transactions are noticed to have occurred for securing employment on contract basis through Maharashtra Vikas Group. The learned counsel further submitted that, just to validate the action announced by the

Hon'ble Minister that the said committee was called upon to submit the supplementary report making out some case against the applicant. Learned counsel submitted that if the reports of the preliminary enquiry and final enquiry are conjointly read with the supplementary report, the only conclusion would emerge that the allegations raised against the applicant are baseless and unsustainable.

8. Learned counsel referred to and relied upon the judgment of the Hon'ble Apex Court in the case of **State of Orissa through its Principal Secretary, Home Department Vs. Bimal Kumar Mohanty (1994) 2 SCR 51**, wherein it is held that the order of suspension is to be passed after taking into consideration the gravity of misconduct sought to be enquired into or investigated and the nature of the evidence placed before the appointing authority and on application of the mind by disciplinary authority. Learned counsel invited my attention to the following observations made by the Hon'ble Apex Court in the said judgment, which read thus :-

“It is thus settled law that normally when an appointing authority or the disciplinary authority seeks to suspend an employee, pending inquiry or contemplated inquiry or pending investigation into grave charges of misconduct or defalcation of funds or serious acts of omission and 5 1993 Supp (3) SCC 483: 1994 SCC (L&S) 67: (1993) 25 ATC commission, the order of suspension would be passed after taking into consideration the

gravity of the misconduct sought to be inquired into or investigated and the nature of the evidence placed before the appointing authority and on application of the mind by disciplinary authority. Appointing authority or disciplinary authority should consider the above aspects and decide whether it is expedient to keep an employee under suspension pending aforesaid action. It would not be as an administrative routine or an automatic order to suspend an employee. It should be on consideration of the gravity of the alleged misconduct or the nature of the allegations imputed to the delinquent employee.”

9. Learned counsel submitted that in the present matter there was absolutely no material before the competent authority for issuance of the order of suspension against the applicant. Learned counsel, in the circumstances, prayed for setting aside the impugned order.

10. Respondents have resisted the contentions raised in the O.A. and the prayers made therein by filing their affidavit in reply. Short affidavit has been filed on behalf of respondent nos. 1 to 4. Respondents have contended therein that on 3.8.2023 the Hon'ble Member of legislative council namely Shri Gopichand Padalkar mentioned the issue in the house about irregularities in the recruitment of the contractual staff in District Hospital, Beed and while answering to the question posed by the said Hon'ble Member, the Hon'ble Health Minister announced the suspension of the applicant. It is further contended that regarding the complaints against the applicant

in respect of the contractual recruitment in Mental and Geriatric Hospital, Lokhandi-Savargaon, Tq. Ambajogai, Dist. Beed, a Three Members committee was appointed and the said Committee in its report dated 28.8.2023 has recorded a finding that in the said recruitment no financial transactions have taken place. Respondents have further contended that during the course of enquiry, it has been however, later on noticed that around 35 candidates, which were not in the list provided by the company i.e. Maharashtra Vikas Group are noticed to have joined and the enquiry needs to be conducted in that regard. It is further contended that action taken against the applicant by the competent authority is well within the jurisdiction and no interference is required in the said order.

11. Learned Chief Presenting Officer, while advancing argument on behalf of the respondents reiterated the contentions raised in the affidavit in reply filed on behalf of the respondents. Learned C.P.O. submitted that the impugned order is well within the powers of the State Government and in the order of suspension the competent authority is not supposed to elaborate the reasons for passing such order. Learned C.P.O. submitted that there were several complaints in respect of the recruitment made on the establishment of District

Civil Hospital of the contractual employees and news items were published in that regard in all local newspapers. Learned C.P.O. submitted that some complaints were also made to the Hon'ble Members of legislative assembly and legislative council and the said Members raised said issue on the floor of the assembly/council and the extracts of the proceedings in the legislative assembly/council are produced on record.

12. The learned C.P.O. further submitted that allegation was made against the Government that it is protecting the applicant despite serious complaints against him, which are reflected in the newspapers. It was also pointed out that the applicant is already facing one D.E. and now another D.E. will have to be initiated against him and, as such, it was incumbent to place the applicant under suspension during the enquiry contemplated against him. Learned C.P.O. submitted that three members' committee has submitted a supplementary report and has suggested to conduct a thorough enquiry about the discrepancies noticed by them. The committee has specifically reported that 35 employees were found to have joined prior to the date of their order of appointment. According to the committee, the aforesaid aspect needs a detailed enquiry.

13. Learned C.P.O. placing reliance on the judgment of Principal Seat of this Tribunal at Mumbai delivered in **O.A. No. 336/2018 (Shri Raju Dhondiram Akrupe Vs. State of Maharashtra & Ors.)** on 6.11.2019 submitted that after having referred to several judgments of the Hon'ble Apex Court this Tribunal has recorded a clear finding in the said matter that, unless the order of suspension is shown to be *ex facie* illegal or *malicious* or without jurisdiction the same should not be interfered with. Learned C.P.O. submitted that no illegality has been pointed out by the applicant in issuance of the order of suspension, neither it is the contention of the applicant that the impugned order is without jurisdiction. Learned C.P.O. further submitted that the applicant has also not made any such allegation attributing *mala fides* on the part of the respondents. Learned C.P.O. in the circumstances has prayed for dismissal of the O.A.

14. I have duly considered the submissions made on behalf of the applicant, as well as, respondents. I have also perused the documents produced on record by the parties. The impugned order reveals that the applicant has been put under suspension in contemplation of a departmental enquiry against him in respect of the recruitment of contractual employees in Beed District Hospital. Though the specific provision is not

mentioned in the impugned order, it is quite evident that the respondents have invoked the powers under Rule 4(1)(a) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979.

The said rule reads thus: -

“4. Suspension

(1) The appointing authority or any authority to which the appointing authority is subordinate or the disciplinary authority or any other authority empowered in the behalf by the Governor by general or special order may place a Government servant under suspension-

(a) where a disciplinary proceeding against him is contemplated or is pending, or”

The plain reading of the aforesaid rule would mean that if the departmental enquiry is pending or contemplated against a Government employee, he may be suspended by the competent authority under the aforesaid rule during pendency of the said enquiry.

15. In the present matter it is not in dispute that the applicant is suspended in contemplation of the DE against him in respect of irregularities allegedly occurred in the recruitment of contractual employees in the District Hospital, Beed. The question is whether pendency of the D.E. or contemplation of the D.E. against the Government employee is the only requirement for ordering the suspension of the said employee or something

more is required. It is the matter of common knowledge that the D.Es. are conducted even without suspending the delinquent employee. It is thus evident that it is not a thumb rule that once the D.E. is contemplated against the Government employee, he has to be put under suspension till completion of the said enquiry.

16. Mumbai Bench of this Tribunal in O.A. No. 336/2018 has culled out the following principles, after having considered the judgments of the Hon'ble Apex Court cited before it :-

“(i) The power to suspend the employee and to institute the disciplinary proceedings against an erring employee on charge of misconduct lies solely within the province of employer/ State.

(ii) The order of suspension is required to be passed after taking into consideration the gravity of misconduct sought to be enquired into bearing in mind whether it is expedient to keep an employee under suspension pending the departmental action and it should not be as an administrative routine matter. The employer/ State is required to consider the nature of the charges, the surrounding circumstances of the matter and the impact on the discipline in the establishment.

(iii) The power of suspension should not be exercised in an arbitrary manner or/and without any reasonable ground or as vindictive misuse of power.

(iv) Suspension can be made in case where there is strong prima-facie case against an employee and the allegations are grave and serious.

(v) The fact of each case have to be taken into consideration for deciding whether the suspension is warranted or legal and no strait-jacket formula can be laid down in this regard.

(vi) The power of judicial review should not be exercised unless the decision of suspension is illogical or suffers from procedural impropriety or it shocks the conscience of the Court.

(vii) Where the Court or Tribunal is satisfied that there is abuse or misuse of power, then it is incumbent to interfere with the order of suspension.”

17. The aforesaid judgment is relied upon by the learned Chief Presenting Officer in support of his contentions raised on behalf of the respondents. Validity of the impugned order has to be tested on the anvil of the above principles. It is the contention raised on behalf of the respondents that there were several complaints in respect of the irregularities occurred in recruitment of contractual employees in District Hospital, Beed. The order of suspension admittedly does not indicate any allegation of financial transactions in the said recruitment. As has been further contended by the respondents in their affidavit in reply the aforesaid issue was raised in the assembly/council. The extracts of the proceedings of the business transacted in the legislative council on 3.8.2023 are produced on record, which reveal that allegation was that the recruitment was being done through blacklisted company and the appointments are being made on monetary considerations. I deem it appropriate

to reproduce hereinbelow the relevant portion from the said proceedings :-

“श्री. गोपिचंद पडळकर: एकच विनंती आहे की, गंभीर विषय आहे, मला मांडू द्यावा. यामध्ये खात्याची वा सरकारची बदनामी होत आहे. क आणि ड वर्गाची भरती प्रक्रिया सुरु आहे, ही प्रक्रिया काळ्या यादीत असलेल्या कंपनीकडून सुरु आहे. लोकांकडून याकरिता पैसे वसूल केले जात आहे. याबाबत वृत्तपत्रात छापून आलेले आहे, यामध्ये सरकारची बदनामी होत आहे. मी मंत्रीमहोदयांना विनंती करत आहे की, जे डॉ. साबळे नामक सी.एस. आहेत, त्यांना का पाठीशी घालण्यात येत आहे ? त्यांना पाठीशी घालण्याचे काय कारण आहे? याबाबत सर्व वृत्तपत्रांमध्ये रोज छापून येत आहे. मी शासनाकडे विनंती करत आहे की, डॉ. साबळे यांच्यावर निलंबनाची कठोर कारवाई करावी. रोज वर्तमानपत्रात यासंदर्भातील बदनामीकारक बातम्यांची मालिकाच सुरु आहे. यावर निर्णय घेण्यात येणार आहे किंवा कसे? याबाबत सरकारने उत्तर द्यावे, अशी मी विनंती करत आहे.”

18. Neither in the aforesaid record nor in the order of suspension and nor in the affidavit in reply filed on behalf of the respondents any such allegation is expressly made against the applicant that he is involved in the alleged monetary transactions. Had such information be available, the learned Member of the legislative council must have certainly disclosed the said fact on the floor of the assembly/council. It would be then certainly disclosed in the affidavit in reply filed by the respondents, as well as, in the order of suspension also. It can be, therefore, reasonably inferred that when the order of suspension came to be issued, there was no specific allegation against the applicant to be involved in the said illegal monetary

transactions. In the circumstances, as has been rightly argued by the learned counsel appearing for the applicant that before taking any such drastic action of suspension against the applicant the proper course to be adopted by the respondents and even by the Hon'ble Minister before making any announcement was to direct the enquiry, may be a preliminary or discrete, into the allegations allegedly made against the applicant

19. One of the principles as culled out in O.A. No. 336/2018 is that the suspension can be made in case where there is strong prima facie case against the employee and the allegations are grave and serious. The respondents themselves have placed on record the preliminary report submitted by the three members' committee on 23.8.2023. The three members' committee has reported that in the statements of 10 candidates out of 77, recruited as contract employees, none of them has stated that he/she was required to pay any monetary consideration for getting employment. The committee has therefore recorded a primary finding that there does not appear that any monetary transactions had taken place in the alleged recruitment. The respondents have also placed on record the final report submitted by said committee on 28.8.2023. In the

final report the committee has in no uncertain terms has recorded its findings that, 'from the available documents and the statement of officers, employees, MVG Company and the candidates, no financial transactions seem to have taken place'. The said committee has recorded the statements of about 20 such contractual employees recruited through MVG Company and none of them has made any such allegation against anybody much less against the applicant.

20. It is true that the Three Members' committee has thereafter also submitted the supplementary report on 6.9.2023 contending that some irregularities have taken place in the said recruitment. It is the specific contention that 35 candidates, whose names are enlisted in the said report are noticed to have joined the duties, contrary to the rules before 12.7.2023 and, as such, the detailed enquiry was required. According to the applicant, the committee was called upon to submit the aforesaid supplementary report in order to validate the action announced by the Hon'ble Minister on the floor of the assembly.

21. I may not indulge in making any more discussion on the aforesaid issue for the reason that the D.E. is contemplated against the applicant involving the aforesaid aspects. However,

the said facts cannot be totally kept out of consideration while examining the sustainability of the order of suspension impugned in the present O.A. The moot question is at the time when the suspension of the applicant was announced by the Hon'ble Minister on the floor of the assembly on 3.8.2023 and when the suspension order was issued by the competent authority on 7.8.2023, what was the material before them. I have reproduced hereinabove the relevant extract of the proceedings of the business transacted on 3.8.2023 in the legislative council. Learned member of the legislative council has not made any direct allegation against the applicant that he was involved in the alleged monetary transactions. Had there been any such complaint against the applicant, learned Member of the legislative council would not have hesitated in disclosing the said fact and would have made express allegations against the applicant. It seems that learned member was not having any such concrete and authenticate information with him and he, therefore, made a vague allegation based on the newspaper reporting. Other member also though had made certain allegations in regard to the recruitment of the contractual employees, even in the said complaint she has not made any allegation that in the said monetary transaction the applicant

was actively involved or was beneficiary. Thus on 3.8.2023 when such issues were raised by the learned member of the legislative assembly/council, the Hon'ble Minister instead of announcing the suspension of the applicant, must have informed to the said members and the house that due enquiry will be conducted in the matter and thereafter statement will be made on behalf of the Government. Instead of adopting the said course, the Hon'ble Minister announced the suspension of the applicant.

22. It is significant to note that on 07.08.2023 the date on which the order of suspension came to be issued against the applicant, another order came to be passed, whereby the Government constituted a Committee, consisting of three members to make enquiry into the allegations made in respect of the recruitment of contractual employees through outsourcing on the establishment of Beed District Hospital. It is thus evident that before conducting any preliminary enquiry into the allegations in the recruitment of contractual employees, on the said ground, respondent No. 1 suspended the applicant. As I have noted hereinabove, said Three Members Committee submitted its report on 28.08.2023 with a clear finding that the committee did not find occurrence of any monetary transactions

in the said recruitment. I deem it appropriate to reproduce herein below finding recorded by the said committee, which reads thus :-

“ वरील सर्व उपलब्ध कागदपत्रे व सर्व अधिकारी / कर्मचारी/MVG कंपनी व उमेदवारांचे जबाबावरून चौकशी समितीच्या मते सदरील पदभरतीमध्ये कुठलाही आर्थिक व्यवहार झाल्याचे आढळून येत नाही.”

23. It is also a matter of record that thereafter the same committee has submitted supplementary report and has suggested for further detailed enquiry. The observations made and the finding recorded by the said Three Members' committee in its supplementary report submitted on 06.09.2023 and findings recorded in the final report submitted on 28.08.2023, do not reconcile with each other. It is important to note that Three Members' committee has recorded statements of some of the candidates, whose names are mentioned in the supplementary report, at the time of preparing final report submitted on 28.08.2023. The contents of the final report reveal that the said candidates have stated before the committee that no monetary transactions had taken place in the said recruitment.

24. In the present matter, the main contention of the respondents is that the candidates were recruited on contract

basis by accepting some monetary consideration from them. In the final report, the committee has recorded an unambiguous finding that no such monetary transactions had occurred. In the supplementary report also the committee has not suggested any possibility of any monetary transactions. Further there appears no much substance in the fact disclosed in the supplementary report that the candidates, whose names are mentioned in the said report were noticed to have joined the duties before appointment orders were issued in their favour. The applicant has placed on record the document showing that the list of said candidates was forwarded by the Maharashtra Vikas Group, the agency to which the work was outsourced on 06.07.2023. In sum and substance, there was no such material available against the applicant so as to order his suspension. In the circumstances, even if it is accepted that the power to suspend an employee and to institute the disciplinary proceedings against an erring employee on charge of misconduct lies solely within the province of employer / State, as per the principles culled out in the judgment in O.A. No. 336/2018, further requirement cannot be lost sight of as one of the said principle is that the order of suspension is required to be passed after taking into consideration the gravity of

misconduct sought to be enquired into. One another principle is that the suspension can be made in a case where there is a strong prima-facie case against the employee and the allegations are grave and serious. The order of suspension impugned in the present Original Application if tested on such principles, cannot be sustained.

25. After having considered the facts and circumstances involved in the present matter, I have no hesitation in recording a finding that at the time of issuance of order of suspension against the applicant there was no such material either before the Hon'ble Minister or with the competent authority making out any case much less strong prima-facie case against the applicant to order his suspension. There is reason to believe that even the Hon'ble Members of the Legislative Assembly / Council made allegations against the applicant based on the newspaper reporting and were not having any authentic information with them. The Hon'ble Minister also instead of directing the constitution of committee to enquire into the allegations raised against the applicant, directly ordered his suspension. I reiterate that Three Members' committed has recorded an unambiguous finding that no monetary transactions had occurred in the said recruitment. Insofar as suggestions

given by the said committee in the supplementary report are considered, the respondents are not precluded from conducting a due enquiry in that regard. However, there appears no need of keeping order of suspension alive till the said enquiry is completed. The order of suspension being passed without any reasonable ground, for passing such order, it has to be said that the said power has been exercised by the respondents in an arbitrary manner.

26. Learned CPO has relied upon the judgment delivered by the MAT Bench at Mumbai in O.A.No.336/2018 on 06-11-2019. I have gone through the facts of the said case. In the said case there was ample evidence to justify the order of suspension. In the said matter the delinquent employee had admittedly approached the Hon'ble Leader of Opposition in the context of Attention Motion. At that time the applicant in the said matter allegedly threatened respondent no.3 in the said matter and manhandled him. In the circumstances, the said applicant was chargesheeted for serious misconduct of interference in the business of Legislative Council. As is revealing from the discussion made in the judgment, there was sufficient evidence showing the alleged misconduct of the applicant in the said matter which was *prima facie* in breach of Rule 3

of Maharashtra Civil Services (Conduct) Rules, 1979 and in view of the evidence available against the said applicant, the Tribunal declined to cause any interference in the order of suspension passed against the applicant in the said matter.

27. Facts in the present matter are, however, quite distinguishable. In the instant matter not a single instance has been brought on record by the respondents in order to show that money was accepted from the candidates for giving them appointment and further that the applicant was beneficiary of such transactions. On the contrary, the Committee which was constituted for the specific purpose has recorded an unambiguous finding that no such monetary transaction was noticed in the recruitment so carried out. At this stage only it has to be further stated that after receiving of certain complaints against the said recruitment, the State has taken a decision to discontinue the employees given appointment in the said recruitment process and accordingly the said employees are discontinued. Had the said employees given money for securing the appointment, they would not have remained silent after their discontinuation, however, none has come forward with such allegation.

28. Learned CPO has also relied upon the judgment of the Division Bench of the Hon'ble Uttarakhand High Court in **Special Appeal No.576/2019** decided on 18.6.2019 (**Naresh Kumar Vs. State of Uttarakhand and Ors.**). In the said matter preliminary enquiry was conducted by the enquiry committee and it was held by the said committee that the petitioner in the said matter was guilty of embezzlement of money. On the basis of the said report, the petitioner therein was placed under suspension. It is thus evident that facts involved in the said matter and the facts which existed in the present matter are altogether different. In the present matter without conducting any preliminary enquiry, order of suspension has been passed. I reiterate that committee was appointed on the same day on which the order of suspension was passed and the said committee in its report has recorded a finding that no monetary transactions were noticed to have occurred in the recruitment of contractual employees on the establishment of District Civil Hospital Beed. I, therefore, see no reason to refer to the observations made in the aforesaid judgment which were emphasized by the learned C.P.O.

29. After having considered the facts and circumstances involved in the present matter and after having considered the

legal precedence, I have reached to the conclusion that in the present case, the suspension of the applicant was not warranted. It is well settled that the power of suspension should not be exercised in an arbitrary manner and without any reasonable ground. Order of suspension is not to be passed in a routine and casual manner but with due care and caution after taking all factors into account. Time and again the Hon'ble Supreme Court has ruled that the order of suspension be made after consideration of the gravity of the alleged misconduct or the nature of allegations imputed to the delinquent employee and if prima facie such material exists against the delinquent employee. In the present matter all these ingredients are absent. It has to be stated that because of the order of suspension the officer concerned really gets demoralized and his image in the society gets adversely affected. That is the reason the Hon'ble Supreme Court has cautioned not to pass orders of suspension in a routine and casual manner.

30. In the present matter, as I have elaborately discussed hereinabove there was no even prima facie material before the competent authority for issuance of an order of suspension against the applicant. It is evident that with an

intention to validate the announcement made by the Hon'ble Health Minister on the floor of the assembly, impugned order of suspension came to be passed. However, for the reasons discussed hereinabove the said order cannot be sustained and deserves to be set aside. In the result the following order is passed: -

ORDER

- (i) Order dated 07-08-2023 whereby the applicant has been suspended is quashed and set aside.
- (ii) The Original Application thus stands allowed.
- (iii) There shall be no order as to costs.

VICE CHAIRMAN

Place : Aurangabad

Date : 05.10.2023