

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 29/2019 (S.B.)**

Santosh Mandanlal Bang,  
Aged 48 years, Occ. Service  
(at present under suspension)  
R/o Rukmini Nagar, Amravati Road,  
Paratwada, District Amravati.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Ministry of Urban Development,  
Mantralaya, Mumbai.
  
- 2) Commissioner/ Director,  
Municipal Administration,  
Having its office at 3<sup>rd</sup> floor,  
Govt. Transport Building,  
Sir Pochkhanwala Marg, Worli,  
Mumbai.

**Respondents.**

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**Shri S.P. Palshikar, Advocate for the applicant.**

**Shri A.M. Ghogre, P.O. for respondents.**

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**Coram :- Hon'ble Shri Anand Karanjkar,  
Member (J).**

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**JUDGMENT**

**(Delivered on this 3<sup>rd</sup> day of April, 2019)**

Heard Shri S.P. Palshikar, learned counsel for the applicant and Shri A.M. Ghogre, learned P.O. for the respondents.

2. It is grievance of the applicant that as the applicant was involved in a criminal case under Section 3, 13 (1) (d) r/w section 13 (2) of the Prevention of Corruption Act, the applicant was arrested and on the basis of this fact the applicant was suspended vide order dated 16/10/2018. It is submission of the applicant that as per the law laid down by the Hon'ble Apex Court in case of **Ajay Kumar Choudhary Vs. Union of India through its Secretary & Ano. (2015) 7 SCC, 291** the suspension cannot be continued after expiry of 90 days, as the departmental authority did not review and decide whether it was really necessary to continue the suspension. It is submitted that the period of 90 days expired on 16/01/2019 and therefore, the action of the respondents continuing the suspension is illegal. It is submission of the applicant that his suspension be revoked and direction be given to respondent no.2 to reinstate the applicant as an Accounts Officer.

3. The learned counsel for the applicant has placed reliance on the Judgment in case of **Ajay Kumar Choudhary Vs. Union of India (2015) 7,SCC,291** and the Judgment delivered in SLP No. 12112-12113 of 2017 in Civil Appeal No.8427-8428 of 2018 by the Hon'ble Apex Court on 21/08/2018.

4. So far as the law down by the Hon'ble Apex Court is concerned, no one can make a dispute about it. In the present case the learned P.O. has placed reliance on the G.R. dated 14/10/2011. It

is submitted that as per the G.R. dated 14/10/2011 the Government of Maharashtra has prescribed special procedure to be followed where the Government servant is involved in the crime which are described in para-3 of the G.R. It is further submitted that if the government servant is involved in such crime, then his case shall be placed before the Suspension Review Committee for consideration after one year from the date of the suspension.

5. It is submitted on behalf of the applicant that G.R. dated 14/10/2011 is not binding because the law is laid down by the Hon'ble Apex Court in the year 2015 and 2018 and therefore on the basis of G.R. dated 14/10/2011 the suspension of the applicant after expiry of 90 days cannot be justified.

6. In view of the above facts and circumstances, it is necessary to point out that in case of Ajay Kumar Choudhary Vs. State of Maharashtra and also in case of State of Tamil Nadu Vs. Pramod Kumar after considering the Service Rules applicable to the Government servants, the both cases were decided by the Hon'ble Apex Court. The legal position is settled that the Constitution has authorised the State Governments to issue the resolutions and resolutions issued by the State Government have a force of law unless and until such resolutions are declared ultra virus by the competent court. In the present case it is nowhere shown that G.R.

dated 14/10/2011 is declared ultra virus, therefore, the special procedure laid down in para-3 of the G.R. is required to be followed.

7. After reading this G.R. it seems that the G.R. is applicable when the Government servant is involved in crime involving disproportionate assets or moral turpitude or illegal gratification or murder or attempt to commit murder or rape and other serious offences. In the present case apparently the applicant is involved in a crime punishable under the Prevention of Corruption Act, and in view of the registration of the offence and the arrest of the applicant, the applicant was placed under suspension vide order dated 16/10/2018. Therefore, the procedure laid down in para-3 of the G.R. dated 14/10/2011 is required to be followed and as per para-3 it is necessary to place the case of the applicant before the suspension review committee, one year after the date of suspension. In the present case, this period of one year is not yet expired; therefore, I do not see any merit in submission of the applicant to interfere in this matter. Hence, the following order –

**ORDER**

The O.A. stands dismissed with no order as to costs.

**Dated** :- 03/04/2019.

**(A.D. Karanjkar)**  
**Member (J).**

\*dnk.