

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 758 of 2015**

Ganesh Uttamrao Kaware,  
Aged about 45 years,  
Occupation- Service as Police Head Constable,  
In the office of Supdt. of Police (Rural),  
Amravati, R/o Ganpatinagar,  
M.I.D.C. Road, Amravati,  
Tq. & Dist. Amravati.

**Applicant.**

**Versus**

- 1) The State of Maharashtra  
through its Secretary,  
Home Department,  
Mantralaya, Mumbai-32.
- 2) The Superintendent of Police (Rural),  
Amravati, Dist. Amravati.

**Respondents**

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**Shri V.A.Kothale, Advocate for the applicant.**

**Shri A.P. Potnis, P.O. for the respondents.**

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**Coram :- Hon'ble Shri B. Majumdar,  
Vice Chairman**

**Dated :- 18/02/2016.**

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**ORDER -**

Heard Shri V.A. Kothale, Id. counsel for the  
applicant and Shri A.P. Potnis, Id. P.O. for the respondents.

2. The O.A. is heard finally at the admission  
stage with consent of Id. counsel for parties.

3. The applicant a Police Hawaldar, has approached the Tribunal aggrieved that he has been placed under suspension w.e.f. 1-9-2015.

4. The applicant was arrested in a case under the Prevention of Corruption Act on 25-8-2015. On 1-9-2015, by an order issued by the Superintendent of Police, Amravati (Rural) (R/2) he was placed under suspension. The impugned order has been challenged in the O.A. On 28-11-2015 he submitted his representation for reinstatement. However, the same has not been allowed by R/2.

5. The applicant submits that three months have passed since he was placed under suspension pending a D.E. but no charge sheet has been served on him. Thus the very ground of suspension does not survive. The criminal proceedings are still pending against him. Under such circumstances continuing him under suspension is not at all justified.

6. The S.P., Amravati (Rural) (R/2) has filed the reply. He submits as follows :-

*"This answering Respondent further submits that, while passing the impugned order, this respondent has considered the Government Resolution dtd. 20-07-2006, a copy of the Government Resolution dtd. 20-7-2006 is annexed herewith as Annexure-R-1, which specifically contemplate that, when a Government servant is arrested in connection with the offence registered under the*

*Prevention of Corruption Act and is suspended by the competent authority, in such cases the Government servant should be kept under suspension till the final decision of the court of law”.*

7. Shri V.A.Kothale, the learned counsel for the applicant submitted that the fact that no charge sheet has been issued to the applicant and no progress has taken place with regard to filing of the criminal case against him, the very grounds for placing <sup>him</sup> under suspension no longer exist. The applicant cannot be continued to be kept under suspension. Hence, the impugned order is required to be revoked.

8. I find that R/2 by way of justification for continuing the applicant under suspension has relied on the G.R. of 20-7-2006. It appears from the record that after a crime was registered against applicant under the Prevention of Corruption Act, launching of criminal prosecution against him is pending as grant of permission in this regard is awaited. The G.R. of 20-7-2006 in regard to the above situation states as follows –

“अभियोग दाखल करण्याच्या प्रस्तावास मंजूरी देण्यात येईपर्यन्त निलंबन चालू ठेवण्यात यावे, कारण प्रस्तावाच्या प्रलंबनाचा फायदा शासकीय सेवकास देणे योग्य नाही”.

9. On 14-10-2011 the Government in G.A.D. issued another G.R. vide which all earlier G.Rs. prescribing guidelines for

reviewing of cases of suspension of Govt. servant have been superseded. The G.R. after stating the constitution of committees for reviewing such cases of suspension, in para-3 states as follows –

“ज्या प्रकरणी शासकीय अधिकारी / कर्मचा-यावर बेहिशोबी मालमत्ता, नैतिक अधःपतन, लाच-लुचपत, खुन, खुनाचा प्रयत्न, बलात्कार या व या सारख्या गंभीर प्रकरणात फौजदारी गुन्हा दाखल झाल्यामुळे निलंबनाची कारवाई करण्यात आली असेल अशा प्रकरणी निलंबनाच्या दिनांकापासून एका वर्षानंतर प्रकरण संबंधित निलंबन आढावा समितीसमोर विचारार्थ सादर करण्यात यावे”.

10. Thus in term of the above G.R., the applicant's case for review of his suspension will be due for review after one year, i.e., in September, 2016. Thus, there is no case for directing the respondents to review the applicant's case of suspension at this stage.

11. The O.A. is without any merit, and hence stands rejected.

sd/-

(B. Majumdar)  
Vice Chairman.

dnk.