

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 260 of 2022 (SB)**

Bhaurao S/o Pundlikrao Ghuge,  
aged 45 years, Occ. Service (At present under suspension),  
R/o "Devsmruti" Rautwadi, Akola.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Through Its Additional Chief Secretary,  
Home Department, Mantralaya, Mumbai-32.
- 2) The Superintendent of Police,  
Akola, having its office in front of Collector Office,  
Akola – 444001.

**Respondents.**

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

**Shri M.I. Khan, learned P.O. for respondents.**

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**Coram :- Hon'ble Shri M.A. Lovekar,  
Member (J).**

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**Date of Reserving for Judgment : 8<sup>th</sup> August, 2023.**

**Date of Pronouncement of Judgment : 11<sup>th</sup> August, 2023.**

**JUDGMENT**

**(Delivered on this 11<sup>th</sup> day of August, 2023)**

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

2. Case of the applicant is as follows –

By order dated 24/02/2022 (Annex-A-3) the applicant who  
was attached to Balapur Police Station as Police Inspector, came to be

attached to Control Room, Akola. By order dated 28/02/2022 (Annex-A-2) the applicant was placed under suspension. The order inter alia stated –

“ज्या अर्थी तुम्ही पोलीस निरीक्षक भाऊराव घुगे, पो. स्टे. बाळापूर प्रभारी अधिकारी म्हणून कार्यरत आहात. पो. स्टे. बाळापूर येथे अपराध नं. ६५५/२१ कलम ३ (१) सार्वजनिक संपत्ती नुकसान प्रतिबंधक अधिनियम १९८४ अन्वये गुन्हा दाखल करण्यात आला असून, सदर गुन्ह्याचे तपासी अधिकारी सपोउपनि / ३४१ अशोक वाणी, व आपण संगनमत करून मुख्य आरोपी निष्पन्न झाल्यानंतर हि मुख्य आरोपीचे जागी अन्य दुसरे दोन आरोपी निष्पन्न झाल्याबाबत तपासामध्ये दाखवून, गुन्ह्यातील फिर्यादी यांना अन्य दुसरे दोन आरोपी दाखवून चुकीची ओळख परेड-करून घेवून त्यांना सदर गुन्ह्याचे तपासामध्ये समजपत्र देवून सोडण्यात आले, हि पोलीस विभागासाठी अत्यंत गंभीर बाब आहे.”

By order dated 22/04/2022 suspension of the applicant was revoked by observing thus –

“पोलीस निरीक्षक भाऊराव घुगे यांचा दिनांक २८.०२.२०२२ पासूनचा निलंबन बाबतचा आढावा निलंबन कालावधी विचारात घेवून त्यांना हे आदेश प्राप्त झाल्याचे दिनांकापासून निलंबनातून विभागीय चौकशीच्या अधिन राहून मुक्त करण्यात येत आहे निलंबनातून मुक्त केल्यानंतर त्यांची नेमणुक पोलीस नियंत्रण कक्ष, अकोला येथे अकार्यकारी पदावर करण्यात येत आहे. पोलीस अधीक्षक, अकोला यांनी पोलीस निरीक्षक श्री. भाऊराव घुगे हे कर्तव्यावर हजर झाल्याबाबतचा अहवाल तात्काळ या कार्यालयास सादर करावा. ”

The order dated 28/02/2022 is impugned on the ground that respondent no.2 was not authorized to pass it since the applicant holds the post of Police Inspector.

3. The Impugned order shows that it was passed by respondent no.2 by exercising powers under Rule 437 (3) of the Maharashtra Police Rules,1999. Rule 437 of Rules of 1999 reads as under –

**“४३७. निलंबित करण्याचे अधिकार :-**

(१) पोलीस महासंचालक / पोलीस आयुक्त बृहन्मुंबई यांना पोलीस निरीक्षक आणि त्याखालील कोणत्याही अधिका-याला निलंबित करण्याचे अधिकार आहेत.

(२) पोलीस अधीक्षक, बिनतारी / मोटार परिवहन आणि प्राचार्य, पोलीस प्रशिक्षण शाळा यांच्यासह सर्व पोलीस अधीक्षकांना ज्यांच्या विरुद्ध तक्रारीमधील चौकशी प्रलंबित आहे, अशा पोलीस निरीक्षकांखालील (त्यांना कनिष्ठ असलेल्या) कोणत्याही अधिका-यास निलंबित करण्याचे अधिकार आहेत.

(३) पोलीस निरीक्षकांविरुद्धच्या तक्रारीमधील चौकशी प्रलंबित असताना पोलीस महासंचालक / पोलीस उपमहानिरीक्षक यांच्याकडील आदेश मिळेपर्यंत पोलीस निरीक्षकांना पोलीस अधीक्षक निलंबित करू शकतील.

(४) पोलीस अधिका-याच्या निलंबनाचे आदेश निर्गमित करणा-या कोणत्याही अधिका-याने त्यांच्या सहीनिशी त्याची कारणे नोंद केली पाहिजे. ”

In the instant case sub rule 3 of rule 437 is relevant.

4. On behalf of the applicant following submissions were made-

(i) On 24/02/2022 statement of the applicant was recorded by Assistant Police Inspector (API) Smt. Tathe who was his subordinate.

(ii) At this point of time the applicant could not have known whether any inquiry was being conducted against him.

(iii) There was nothing to even presume that inquiry was being conducted against the applicant. Under these circumstances recourse to Rule 437 (3) was impermissible.

(iv) Suspension of the applicant was unfounded, actuated by malafides and showed colorable exercise of powers.

5. The O.A. is opposed by respondent no.3 on the following grounds –

(i) Preliminary inquiry was conducted against the applicant and ASI Wani by respondent no.2. During this inquiry respondent no.2 recorded statements of the applicant and 9 witnesses, gathered data regarding mobile locations of real accused and innocent persons who were falsely implicated as accused, collected bank statement of one Shailesh Chakranarayan, etc. On the basis of material collected during the preliminary inquiry respondent no.2 proposed initiation of departmental inquiry against the applicant.

(ii) Respondent no.2 forwarded inquiry report to Deputy Inspector General of Police, Amravati.

(iii) Considering above grounds at Sr.Nos.1 and 2 suspension of the applicant under Rule 437 (3) was fully justified.

6. To assail the order of suspension of the applicant reliance was placed on communication dated 18/07/2011 (P-38) issued by Additional Director General of Police (Administration), M.S., Mumbai which reads as under –

*“ With reference to the above, after going through the section 25 (2) (a) of the Bombay Police Act, 1951, the wording, i.e. **"A Superintendent shall have the like authority in respect of any police officer subordinate to him below the grade of Inspector"**, makes it clear that the Superintendent of Police or Dy. C.Ps., do not have the powers to inflict any punishment upon the Police Officials of the rank of Police Inspectors and hence the tabular format issued under this office's Circular No.DGP/11/22/D.E/2006, dtd.26.6.2006 is modified to the said extent and accordingly an appropriate/ corrective action may be taken at your end in the appeals.”*

This communication refers to powers to inflict any punishment. The impugned order of suspension did not inflict any punishment. It was passed because DE was contemplated against the applicant. Hence, this communication will not help the applicant.

7. Another communication sought to be relied upon by the applicant is at page no.39 which was issued by Additional Director General of Police (Administration), M.S., Mumbai. This communication refers to suspension of one Police Inspector under Rule-3 (1-A) of the Bombay Police (Punishment and Appeal) Rules,1956. In this case the applicant was suspended not under Rule 3 (1-A) of Rules of 1956 but under Rule 437 (3) of Rules of 1999. Therefore, the communication at page no.39 will also not assist the applicant.

8. Instant O.A. was filed on 08/03/2022 impugning only the order of suspension dated 28/02/2022. During pendency of the O.A., on

22/04/2022 order revoking suspension of the applicant came to be passed.

9. In this O.A. the applicant has prayed as under –

*“(i) quash and set aside order of suspension dated 28/02/2021 as illegal, bad in law;*

*(ii) further be pleased to direct the respondent No.2 to reinstate the applicant as a Police Inspector Police Station, Balapur allow him to complete his normal tenure by granting him all consequential and monetary benefits arising therefrom;”*

10. The only point to be determined is whether respondent no.2 had properly exercised powers under Rule 437 (3) of Rules of 1999. Specific contention of respondent no.2 is that preliminary inquiry was conducted by him and it revealed complicity of the applicant because of which DE was contemplated against him. This has not been adequately controverted by the applicant. The impugned order states that its copy was forwarded to Deputy Inspector General of Police, Amravati. Both these circumstances taken together shall suffice to conclude that respondent no.2 had properly exercised powers under Rule 437 (3) of Rules of 1999.

11. The applicant has relied on following Judgments of this Tribunal –

(i) O.A. Nos. 568/2017 in the case of **N.D. Dandale Vs. State of Mah. & Ors.** and 569/2017 in the case of **R.P. Gaikwad Vs. State of Mah. & Ors.**, decided on 28/06/2018.

(ii) O.A.No.1007/2018 in the case of **Shri Himmat V. Sapale Vs. State of Maharashtra & Ors.**, decided on 16/12/2019.

(iii) O.A.No.179/2021 in the case of **Shri R.A. Marathe Vs. State of Maharashtra & Ors.**, decided on 29/08/2022.

In the Judgment at Sr.No.1 Rule-3 (1-A) of the Bombay Police (Punishment and Appeal) Rules, 1956 was considered whereas in rest of the Judgments Rule 4 (1) of the MCS (D&A) Rules,1982 was considered. In none of these Judgments Rule 437 (3) of Rules of 1999 had come up for consideration. Therefore, none of these rulings sought to be relied upon by the applicant will help him.

12. I have quoted Rule 437 (3) of Rules of 1999. By taking recourse to this rule respondent no.2 passed the impugned order. Copy of the impugned order was sent to Dy. Inspector General of Police, Amravati seeking sanction. It is apparent that this was in conformity with Rule 437 (3) of Rules of 1999.

13. For the reasons discussed hereinabove, the O.A. is liable to be dismissed. It is accordingly dismissed with no order as to costs.

**(M.A.Lovekar)**  
**Member (J).**

**Dated** :- 11/08/2023.

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 11/08/2023.