

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.709 OF 2022**

**DISTRICT : THANE  
SUBJECT : SUSPENSION**

Vinod Janardan Sonawane, )  
Head Master, Government Secondary Ashram )  
School, Aina, Tal – Javhar, Dist. Thane ) ...**Applicant**

**Versus**

1. State of Maharashtra, )  
Through the Secretary, Tribal Development )  
Department, Mantralaya, Annexe, )  
Mumbai 400 032 )
2. Additional Tribal Commissioner, Thane, )  
Having office at MTNL Building, )  
Wagle Estate, Thane (W) )...**Respondents**

**Shri Sariputta P. Sarnath, learned Advocate for Applicant.**

**Smt. Archana B. Kologi, learned Presenting Officer for Respondents.**

**CORAM : A.P. KURHEKAR, MEMBER (J)**

**DATE : 23.09.2022.**

**JUDGMENT**

1. In this O.A. the Applicant has challenged suspension order dated 23.06.2022 whereby he is suspended in contemplation of D.E. proposed under Rule 8 of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979.

2. Today O.A. is for filing Affidavit-in-Reply but the same is not filed. Learned P.O. requested for short time to file Affidavit-in-Reply. However, now 90 days period under suspension being already expired and there is no review of the suspension of the Applicant by the competent authority as mandated by Hon'ble Supreme Court in **(2015) 7 SCC 291 (Ajay Kumar Choudhary Vs. Union of India & Anr.)**. Therefore, I am not

inclined to grant further time and O.A. deserves to be disposed of on its own merit.

3. Perusal of suspension order dated 23.06.2022 reveals that the Applicant is suspended invoking Rule 4(1)(a) of M.C.S. (Discipline & Appeal) Rules, 1979 in contemplation of enquiry. As per chargesheet and suspension order certain irregularities attributed to the Applicant in the matter of maintaining the account. Learned P.O. on instruction from Smt. Jyoti C. Punwatkar, Senior Tribal Development Inspector submits that chargesheet dated 24.08.2022 was issued for initiation of regular D.E. However, mere initiation of D.E. by issuance of chargesheet is not enough in terms of Judgment of Hon'ble Supreme Court in ***Ajay Kumar Choudhary's case (cited supra)*** wherein it is held that the currency of a suspension should not exceed beyond three months, if within this period, the Memorandum of Charges is not served on the delinquent and if Memorandum of Charges is served, a reasoned order must be passed for extension of suspension. In present case admittedly no review has been taken nor any such reasoned order is passed for extension of the suspension though period of 90 days is expired yesterday. As such, the Applicant is subjected to the suspension of 90 days without their being any conscious decision of the Department to continue the suspension.

4. In view of above the suspension of the Applicant needs to be revoked immediately and he is liable to be reinstated.

### **ORDER**

- A) The Original Application is allowed partly.
- B) The Suspension of the Applicant stands revoked.
- C) Respondent shall reinstate the Applicant in service within a week.

- D) Respondents shall ensure the completion of D.E. including passing final order therein in accordance to law within four months from today.
- E) The Applicant shall not temper the witness and shall cooperate for expeditious completion of D.E.

**Sd/-**  
**(A.P. Kurhekar)**  
**Member (J)**

Place: Mumbai  
Date: 23.09.2022  
Dictation taken by: N.M. Naik.

Uploaded on: \_\_\_\_\_

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