

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.712 OF 2022**

**DISTRICT: NASHIK  
SUBJECT : DEEMED  
SUSPENSION**

Shri Mukesh Bhanudas Mahajan, )  
Aged : 41 years, working as Circle Agriculture )  
Officer, (under suspension), in the office, )  
of Taluka Agriculture Officer, Tal. Peint, )  
Dist. Nashik, R/o. Flat No.6, Sai Shakti, )  
Apartments, Shri Ramchandra Nagar, Dindori )  
Road, Nashik. )... **Applicant**

**Versus**

- 1) The State of Maharashtra, )  
Through Principal Secretary, )  
Agriculture Department, having office at )  
Mantralaya, Mumbai 400 032. )
- 2) The District Superintending, )  
Agriculture Officer, having office at Nashik. )
- 3) The Sub-Divisional, Agriculture Officer, )  
Nashik Sub Division, having office at )  
Nashik. )
- 4) The Divisional Joint Director of Agriculture )  
Nashik Division, Nashik, having office at )  
Nashik. )
- 5) The Taluka Agriculture Officer, )  
Tal. Peint, Dist. Nashik. )...**Respondents**

**Shri Arvind V. Bandiwadekar, learned Advocate for the Applicant.**

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

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

**DATE** : **26.09.2022.**

**JUDGMENT**

1. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Smt. Archana B.K., learned Presenting Officer for the Respondents.

2. The Applicant has challenged suspension order dated 12.07.2022 whereby Government suspended him invoking Rule 4(2) Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 in view of detention in custody for more than 48 hours.

3. The perusal of record reveals that the Applicant is serving in the cadre of Circle Agriculture Officer (CAO). Commissioner for Agriculture, Pune transferred the Applicant by order dated 10.06.2018 as CAO in the office of Taluka Agriculture Officer, Peint, District Nashik. Accordingly, the Applicant joined on 11.06.2018. Later the Applicant came to be arrested for the offence under section 406, 409, 420, 464, 465, 120 (B) of IPC on 08.01.2022 and was detained in custody for more than 48 hours. It so happened one Mr. Yogesh Sapate resident of Hedpada Tal. Peth had filed private criminal complaint before Learned J.M.F.C., Peint which was registered as criminal case No.28/2021 alleging that 16 Government servant including the Applicant had committed misappropriation while completing some project work in the period from 01.01.2011 to 31.12.2017. Leaned J.M.F.C. send the said compliant to Peint Police for investigation under section 156(3) of Code of Criminal Procedure 1973. On this background, Peint Police registered offences and the Applicant came to be arrested on 08.01.2022. Since he was in custody for more than 48 hours Government by order dated 12.07.2022 suspended him invoking Rule 4(2)(a) of M.C.S. (Discipline & Appeal) Rules, 1979 by way of deemed suspension.

4. Learned Advocate for the Applicant challenged suspension order *inter-alia* contending that the Applicant is subjected to prolong suspension without their being any material to suspend him since the Applicant joined as Circle Agriculture Officer only on 11.06.2018 and the alleged offence pertain to period from 01.01.2011 to 31.12.2017. He therefore strenuously urges that suspension is totally bad in law and the Applicant is liable to be reinstated in service immediately.

5. Whereas, learned P.O. has tendered file noting which shows that review committee in its meeting held on 22.09.2022 recommended for reinstatement of the Applicant on Non-Executive Post. She therefore submits that consequential posting order could be issued soon and the O.A. has become infructuous.

6. Indeed, while releasing the Applicant on bail, learned J.M.F.C. Peint has also observed that the Applicant (accused no.14) was not working in the said office during the period of commission of offence and he has no nexus with the alleged crime. Accordingly, the Applicant came to be released on bail by order dated 13.01.2022. Notably the cognizance of said factual aspects is taken by Government as seen from letter dated 05.05.2022 (Pg. 84). Perusal of letter dated reveals that Government had taken cognizance of it and called the report from Police Inspector (P.I.), Economic Offences Wing (EOW), Nashik (R) to whom the crime was transferred. In the said letter the Government therefore asked EOW Office as to whether the offence registered against the Applicant is cancelled or not and directed to submit report immediately. When the specific query is raised to learned P.O. all that she stated that the offence is still under investigation. The Applicant cannot be subjected to such prolong suspension when *prime-facie* he was not working in that office. The offences pertain to period between 2011 to 2017 as seen from FIR and admittedly the Applicant joined there on 11.06.2018. Indeed, review committee in its minutes also observed that since the Applicant joined on 11.06.2018 he cannot be subjected to

Department proceeding. Despite this position strangely committee recommended for reinstatement on Non-Executive Post which is totally un-understandable. When the Applicant had no nexus or connection with the alleged offence, he ought to have reinstated in same post by revoking suspension. The Applicant was suspended because of his 48 hours detention in custody for the offence with which *ex-facie* he has no connection or involvement in any manner. The suspension therefore deserved to be revoked with immediate effect and the Applicant is liable to be reinstated on same post. Indeed, the Applicant has already filed Criminal Application before Hon'ble High Court to quash FIR on the ground that he is not in any way connected with the offence registered against him and it is subjudice.

**ORDER**

- A) The Original Application is allowed partly.
- B) The Applicant's suspension is revoked with immediate effect and he be reinstated on the post he was holding at the time of suspension within two weeks from today.
- C) No order as to costs.

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

Place: Mumbai  
Date: 26.09.2022  
Dictation taken by: N.M. Naik.

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