

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.766 OF 2021

**DISTRICT: SOLAPUR
SUBJECT: SUSPENSION**

Shri Sachin Arun Anantkawalas,)
Aged 34 years, Working as Administrative Officer,)
R/at Shivratna Niwas, Near Gaondevi,)
Tembhurni Road, Kurduwadi, Tal-Madha,)
Dist.-Solapur.)... **Applicant**

Versus

- 1) The State of Maharashtra,)
Through the Principal Secretary,)
School Education and Sports Department,)
Mantralaya, Mumbai-400 032.)
- 2) The Deputy Director of Education,)
Departmental Education, 17, Dr. Ambedkar Marg)
Opposite Lal Devul, Pune – 411 001.)... **Respondents**

Smt. Punam Mahajan, learned Advocate for the Applicant.

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

CORAM : A.P. Kurhekar, Member (J)

DATE : 28.03.2022.

JUDGMENT

1. The Applicant has challenged suspension order dated 23.06.2020 whereby he was suspended in view of his arrest under the Prevention of Corruption Act, 1988 *inter-alia* contending that he is subjected to prolong suspension without taking review of suspension.

2. Learned Advocate for the Applicant has pointed out that though period of more 22 months is over from the date of suspension, till date

no review is taken and neither charge-sheet is filed in criminal case nor D.E. is initiated. In reference to decision of Hon'ble Supreme Court in **(2015) 7 SCC 291 (Ajay Kumar Choudhary Vs. Union of India & Anr.)** she submits that suspension beyond 90 days is impermissible and prayed for revocation of suspension.

3. Learned P.O. fairly concedes that no review is taken and further concedes no criminal case is filed in Court of Law neither D.E. is initiated.

4. Indeed, Hon'ble Supreme Court in **Ajay Kumar Choudhary's** case taking note of its various earlier decisions mandated that the currency of suspension order should not exceed beyond 3 months, if the memorandum of charges/charge-sheet is not served upon the delinquent and where memorandum of charges/charge-sheet is served within 3 months, in that event, reasoned order must be passed for extension of suspension. It would be useful to reproduce Para 14 from the decision in **Ajay Kumar Choudhary's** case, which is as under :-

14. We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed

in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us.”

5. Apart, since the Applicant is already subjected to prolong suspension of 22 months no fruitful propose would serve by continuing his suspension. He must be getting 75% substance allowance without doing any work. This is not a case were revocation of suspension of the Applicant would be threat to witnesses in criminal case or D.E. Till date no charge-sheet is filed in criminal case nor D.E. is initiated, and therefore the Applicant cannot be subjected to prolong suspension when there is no certainty of further action. The Applicant's right to get speedy trial in a criminal case or expeditious conclusion of D.E. is defeated due to inaction on the part of concerned agencies. O.A. therefore deserves to be disposed of by suitable direction. Hence, the order.

ORDER

- A) Respondents are directed to take review of suspension of the Applicant within 4 weeks from today and if no such decision is taken within 4 weeks the suspension would deem to have been revoked and the Applicant shall be reinstated in service on suitable post as Government deem fit.
- B) If decision is taken within 4 weeks and adverse order is passed it shall be communicated to the Applicant within a week and the Applicant will be at liberty to avail legal recourse.
- C) No order as to costs.

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

Place: Mumbai
Date: 28.03.2022
Dictation taken by: N.M. Naik.

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