

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

**ORIGINAL APPLICATION NO.816 OF 2022
WITH
ORIGINAL APPLICATION NO.817 OF 2022**

**DISTRICT: RAIGAD
SUBJECT: SUSPENSION**

ORIGINAL APPLICATION NO.816 OF 2022

Mr. Gaman Ramji Gavit,)
Age : 54 years, Dob: 01.06.1968,)
Occ. Tahasildar at Murud Janjira,)
Dist. Raigad, R/at. Aklavya Soc.)
Room No.104, 1st floor, Vidya Nagar,)
Aligad, Dist. Raigad.)... **Applicant**

Versus

The Secretary)
Revenue & Forest Department,)
First Floor, Hutatma Rajguru Chowk,)
Madam Cama Road, Mantralaya,)
Mumbai – 32.)... **Respondents**

WITH

ORIGINAL APPLICATION NO.817 OF 2022

1. Mr. Sandesh Sadanand Walanj,)
Age : 53 years, Dob : 16.12.1969,)
Occu. Peon, Group D at Tahasil)
Office at Murud-Janjira,)
Dist. Raigad, R/at. Datta Wadi,)
Murud, Tal. Murud, Dist. Raigad)
2. Mr. Premnath Shyam Patil,)
Age : 49 years, Dob : 07.01.1974)
Occu. Peon, Group D at Tahasil)
Office at Murud-Janjira,)
Dist. Raigad, R/at. At Chikkhali,)
Post Kusumbe, Tal. Alibag,)

Dist. Raigad.)

Versus

1. The Sub Divisional Officer, Alibag,)
Sub Division Alibag, Dist. Raigad)
2. The State of Maharashtra,)
Through the Secretary, Revenue)
and Forest Department, Mantralaya,)
Mumbai.)... **Respondents**

Shri Kishor R. Jagdale, learned Advocate for the Applicant.

Smt. Kranti S. Gaikwad, learned Presenting Officer for the Respondents in O.A. No.816/2022 and Shri Ashok J. Chougule, learned Presenting Officer for the Respondents in O.A. No.817/2022.

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

DATE : 07.10.2022.

JUDGMENT

1. Heard Shri K.R. Jagdale, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents in O.A. No.816/2022 & Shri A.J. Chougule, learned Presenting Officer for the Respondents in O.A. No.817/2022.

2. The Applicants were suspended in view of registration of crime under the provision of Prevention of Corruption Act, 1988. The Applicant in O.A. No.816/2022 was working as Tahasildar – Murud, Dist.- Raigad and the Applicant in O.A. No.817/2022 was working as Peon in his office. They came to be arrested under crime no.49/2021 for the offence under provision of Prevention of Corruption Act, 1988 while allegedly accepting bribe. It is on this background the Applicant in O.A. No.816/2012 was suspended by Government by order dated 14.10.2021 invoking Rule 4(1)(c) of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979. Whereas, the Applicant in O.A. No.817/2022 was

suspended by Respondent No.1 – S.D.O. by order dated 31.08.2021, with effect from 12.08.2021 stating that he was arrested on 12.08.2021 and in custody exceeding 48 hours.

3. In both the matters no Reply is filed.

4. Today, learned P.O. however tendered corrigendum dated 06.10.2022 in O.A. No.817/2022 whereby mistake crept in suspension order dated 31.08.2021 is rectified realizing that factually Applicant was not in custody more than 48 hours. Admittedly, the Applicant was arrested on 12.08.2021 and released on Bail on 13.08.2021. He was not in custody exceeding 48 hours. However, Respondent No.3 – S.D.O. by order dated 31.08.2021 suspended the Applicant w.e.f. 12.08.2021 which is apparently wrong. Therefore, later on Respondent No.3 – S.D.O. issued corrigendum dated 06.10.2022 whereby suspension is shown w.e.f. date of order i.e. 31.08.2022.

5. In both O.As the Applicants were arrested under the provision of Prevention of Corruption Act, 1988. Admittedly till date no charge-sheet is filed in the criminal case. Insofar as departmental proceedings are concerned, joint D.E. is initiated on 14.12.2021 and it is pending without any further progress. Undisputedly, till date no review is taken. All that learned P.O. submits that proposal for review is sent to the concerned department and it will be processed soon.

6. Thus factual position emerges from the record that in O.A. No.817/2022 period of more than one year from the date of suspension is over. Whereas, in O.A. No.816/2022 period of one year will be completed next week. No chargesheet is filed in criminal case till date. Though, D.E. is initiated by issuance of chargesheet dated 14.12.2021, it is simply pending without any progress. Resultantly, the Applicants are subjected to prolonged suspension without taking review of the suspension.

7. Learned Advocate for the Applicant relied on the decision of Hon'ble Supreme Court in **(2015) 7 SCC 291 (Ajay Kumar Choudhary Vs. Union of India & Anr.)** that the suspension beyond three months is impermissible and prayed for reinstatement of the Applicants in service.

8. Hon'ble Supreme Court in **Ajay Kumar Choudhary's case (cited supra)** in Para 21 of the Judgment directed that currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension. Basically in **Ajay Kumar Choudhary's case (cited supra)** suspension was in contemplation of D.E. Whereas, in present case suspension is on account of registration of criminal offence under the provision of Prevention of Corruption Act, 1988. At the same time it needs to be noted that the Government had issued G.R. dated 14.10.2021 for taking periodical review of the suspension of the employees who are suspended under the Provision of Prevention of Corruption Act, 1988 or I.P.C. Para 3 of G.R. specifically provide that where suspension is on account of registration of crime, such matter is required to place before Review Committee after three months from the date of suspension so that the Government servant is not subjected to unjustified prolonged suspension. That apart, Para 4(b) of G.R. provides that if chargesheet is not filed in court of law in that event competent authority is required to take conscious decision for revocation of suspension.

9. However, in the present case the concerned authorities are sitting over the matter without taking objective decision of the continuation or revocation of suspension. The Applicants are getting 75% subsistence allowance without doing any work. One does not know how much time ACB will take to file chargesheet in the criminal case. In such a situation no fruitful purpose will serve by continuing the Applicants

under suspension. The Applicants can be posted on non-executive post or any other post as Respondents deem fit. This is not a case where reinstatement of Applicants in service could be termed threat to criminal case or D.E. The Applicant's fundamental right to speedy trial of criminal case and expeditious disposal of D.E. is highlighted by the Hon'ble Supreme Court in **Ajay Kumar Choudhary's case (cited supra)** are seriously affected.

10. In this view of matter, competent authority is required to take review of the suspension. Hence, the following order.

ORDER

- A) Both the Original Applications are allowed partly.
- B) Respondents are directed to take review of suspension of the Applicants within six weeks from today in view of the observations made by the Tribunal above and the decision as the case may be shall be communicated to the Applicant within a week thereafter.
- C) No order as to costs.

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

Place: Mumbai
Date: 07.10.2022
Dictation taken by: N.M. Naik.

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