

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.1074/2022**

**DISTRICT:- DHULE**

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Shri Sagar Subhash Patil,  
Age: 50 years, Occu. : Service as Laboratory  
Technician, (At present Suspended),  
R/o.39, Shri Ganesh Nagar,  
Near Jitendra Nagar, Nakane Road,  
Devpur, Dhule.

**...APPLICANT**

**V E R S U S**

1) The State of Maharashtra,  
Through: The Secretary,  
Medical Education and Drugs Department,  
Mantralaya, G.T. Hospital Building,  
Mumbai-32.

2) The Commissioner,  
Medical Education and Research,  
Mumbai, Saint George's Hospital Compound,  
Govt. Dental College Building,  
4th Floor, Mumbai.

3) The Director,  
Medical Education and Research,  
Mumbai, Saint George's Hospital Compound,  
Govt. Dental College Building,  
4th Floor, Mumbai.

4) The Dean,  
Shri Bhausaheb Hire Govt. Medical College,  
Dhule.

**...RESPONDENTS**

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APPEARANCE :Shri Kakasaheb B. Jadhav, Counsel  
for Applicant.

:Smt. M.S.Patni, Presenting Officer for  
the respondents.

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**CORAM : HON'BLE SHRI JUSTICE P.R.BORA,  
VICE CHAIRMAN**

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**Decided on : 01-03-2023**  
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**ORAL ORDER :**

1. Heard Shri Kakasaheb B. Jadhav, learned Counsel for the applicant and Smt. M.S.Patni, learned Presenting Officer for the respondent authorities.

2. Aggrieved by the orders of suspension dated 25-03-2022 and 29-03-2022 the applicant has approached this Tribunal. Vide the order dated 25-03-2022 passed by respondent no.3, applicant has been suspended on the ground that in criminal prosecution filed against him he remained behind the bars for more than 48 hours. Order dated 29-03-2022 is also passed on the same ground by the respondent no.4-Dean, Shri Bhausahab Hire Govt. Medical College, Dhule where the applicant is working. Though the contentions are also raised as about illegality of the order of suspension, after having gone through the pleadings in that regard, I may not indulge in scrutinizing the contentions so raised. However, there is substance in the contention raised by the applicant that no review of the order of suspension has been taken by the respondents till

date though the period of more than 11 months has elapsed after passing of the said order. Learned Counsel for the applicant in the circumstances has prayed for setting aside the order of suspension.

3. Contentions so raised in the O.A. are resisted by the respondents. Respondents have filed their affidavit in reply taking therein the following contentions in paragraph 9, which are reproduced hereinbelow:

*“09. As regards to the contents of Para No. VI (8) of the Original Application, I say and submit that the contents made in this para are about Government Resolution dated 09.07.2019, which is matter of record. I further humbly say and submit that, as per the Government Resolution laid down by G.A.D. vide order dated 14.10.2011, N PrAa-1111/Pr.no.86/11-A, Para no 3 after the lapse of one year of Suspension matter will be revised. So after period of one year the applicants matter will come before the committee and final decision will be taken about reinstate.”*

(Reproduced ad-verbatim from p.b.page 71 of O.A.)

4. Learned P.O. reading out the contention so taken in the aforesaid paragraph submitted that the review of the order of suspension will be taken in the next month as stated in the affidavit in reply. Learned P.O. on the aforesaid ground submitted that the contentions raised in

the application and prayers made therein are without substance and hence prayed for rejection of the O.A.

5. From the pleadings of the parties and submissions made, there remains no dispute about the fact that the respondents have not taken any review of the order of suspension passed against the present applicant. I am surprised by the defense raised by the respondents in paragraph 9 of their affidavit in reply which has been reproduced hereinabove. Applicant in his O.A. has referred to the G.R. dated 09-07-2019 and has also annexed along with his O.A. a copy of the said G.R. at Annexure A-6. I deem it appropriate to reproduce the said G.R., which reads thus:

“महाराष्ट्र नागरी सेवा शिस्त व अपील १९७  
नलंबत शासकीय सेवकांना १० दिवसांच्या  
कालावधीत दोषारोपपत्र बजावणेबाबत

महाराष्ट्र शासन

सामान्य प्रशासन विभाग

शासन निणय क्र. निप्र- / प्र.क्र. /

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प्र.क्र. / ि वि , .

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/प्र.क्र. / - ि ि, .

3) Office Memorandum F. No. 11012/04/2016-Estt (A) Government of India Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training Establishment A- III Desk Dated August 23, 2016

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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 the 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.

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taken and after having understood the import of the G.R. if such defense is taken then that will be a more serious aspect. In view of the unambiguous directions given in the G.R. dated 09-07-2019, it was mandatory on the part of the concerned respondents to take review of the order of suspension passed against the present applicant within the period of 90 days. Admittedly, that has not been done.

7. I am informed that the chargesheet in the criminal case has been filed on 11-07-2022. Thus, admittedly, it is filed beyond 90 days. The provision has been made in the G.R. dated 09-07-2019 on the basis of the guidelines given by the Hon'ble Apex Court in the case of **Ajay Kumar Choudhary V/s. Union of India & Ors. [(2015) 7 SCC 291]**. The directions given by the Hon'ble Supreme Court in the said matter are contained in the G.R. which I have reproduced hereinabove.

8. In the circumstances, not taking the review by the respondent authorities will result in the consequences as are stated in the aforesaid judgment. After having considered the facts and circumstances of the matter, it appears to me that the present O.A. can be disposed of by directing the respondents to review the order of suspension



within 4 weeks from the date of this order in light of the guidelines issued in the judgment of the Hon'ble Apex Court in the case of Ajay Kumar Choudhary V/s. Union of India & Ors. (cited supra) and G.R. dated 09-07-2019. O.A. stands disposed of in the aforesaid terms. There shall be no order as to costs.

**VICE CHAIRMAN**

**Place : Aurangabad**  
**Date : 01.03.2023.**