

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 534 of 2016**

Mr. Ramakant Ganpatrao Dhule,  
Aged about 57 years, Occ. Service,  
R/o Utkarsha Colony,  
Wardha (M.S.).

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Principle Secretary  
Revenue & Forest Department,  
Mantralaya, Mumbai-32.
- 2) Collector, Wardha.
- 3) Deputy District Election Officer,  
Wardha.
- 4) Mr. Anant Walaskar,  
Deputy Collector Land Acquisition, Wardha  
Presently Holding the charge of Deputy Dist.  
Election Officer.

**Respondents**

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**Shri S.C. Deshmukh, Advocate for the applicant.**

**Smt. Barabde, Id. P.O. for the respondent nos. 1 to 3.**

**None for respondent no.4.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J).**

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## **JUDGEMENT**

**(Delivered on this 02<sup>nd</sup> day of August, 2017)**

Heard Shri S.C. Deshmukh, Id. Counsel for the applicant and Smt. M.A. Barabde, Id. P.O. for respondent nos. 1 to 3. None for respondent no.4.

2. The applicant a Peon joined the services of the Collector, Wardha in the year 1979. He was posted in the office of Deputy District Election Officer at Wardha in the year 2000. On 25/2/2016 the respondent no.4, i.e., the Dy. Collector of Land Acquisition, Wardha issued a show cause notice to the applicant to explain as to why he shall not be kept under suspension. The applicant replied to the notice on the very day. However, on 2/5/2016 the impugned order of suspension has been issued by respondent no.3 whereby the applicant has been kept under suspension. The said order of suspension is subject matter of this O.A. According to the applicant, the impugned suspension order is illegal and it is issued without authority and therefore the same may be quashed and set aside. Alternatively the order of suspension be revoked and the applicant be allowed to work as a Peon and the respondents be directed to pay subsistence allowance to the applicant.

3. The respondent nos. 3 & 4 have filed reply-affidavit and submitted that the applicant remained absent and show cause notices

were issued to him. There is a huge workload of Land Acquisition of Lower Wardha Project. The respondent no.4 was holding two offices which are in the same building. According to the respondents, the subordinate authority also can pass order of suspension as per the proviso to rules 3 & 4 of The Maharashtra Civil Services (Discipline & Appeal) Rules, 1979. It is stated that the suspension order is self-explanatory and the reason for suspension is clearly mentioned in the order that a proposal for departmental enquiry was also submitted and since there was material on record, the applicant was kept under suspension.

4. During pendency of the O.A., the learned P.O. has placed on record the order passed in departmental enquiry which is at Exh-X on 14/10/2016 from which it seems that the applicant was found guilty in the inquiry in which he was kept under suspension and his one increment has been stopped and period spent under suspension has been treated as duty period. The question there is whether the order of suspension is legal and proper.

5. The learned counsel for the applicant placed reliance on the Judgment delivered by the Hon'ble High Court of Judicature at Bombay in W.P. No. 4267/2008 on 24/9/2008 in case of **Ashurba S/o Bhaurao Saruk Vs. State of Maharashtra & Ano.** I have carefully

gone through the said Judgment. The said Judgment is not at all applicable to the present set of facts. In the case before the Hon'ble High Court the person who was kept under suspension was holding a Gazetted post of Naib Tahsildar and therefore it was held that the Collector has no authority to keep Naib Tahsildar under suspension since the powers were not delegated.

6. In the present case, the applicant is a Peon and he was working in the office of Deputy District Election Officer. The impugned order of suspension has been passed by the Deputy District Election Officer after issuing a show cause notice to the applicant. In the show cause notice the misbehaviour on the part of applicant has been described in detailed and the applicant has been kept under suspension after considering his explanation. As per the provisions of The Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 and particularly proviso to section 4 it would be clear that even authority sub ordinate to appointing authority can pass the order of suspension. Therefore by no stretch of imagination, the order passed by respondent nos. 3 / 4 can be said to be illegal. It is material to note that the competent authority seems to have reinstated the applicant in view of the order passed by this Tribunal. The said order is at P.B. page no.42 and it is dated 22/8/2016. The impugned order therefore seems to have been revoked. The order passed in departmental

enquiry is at Exh-X dated 14/10/2016 also clearly shows that the applicant was found guilty in the departmental enquiry and therefore the order of suspension cannot be said to be illegal. I, therefore, do not find any merits in the claim of the applicant. So far as claim for subsistence allowance is concerned, the necessary direction has already been issued by the Collector, Wardha vide order dated 22/8/2016 and therefore there is no need to issue any direction in this O.A. Hence, the following order :-

**ORDER**

The O.A. stands dismissed with no order as to costs.

**(J.D. Kulkarni)**  
**Vice-Chairman (J).**

dnk.