

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.63 OF 2023**

**DISTRICT: PUNE  
SUBJECT : SUSPENSION**

Smt. Trupti Kolte, Age:- 41 yrs, Occ. Tahasildar, )  
Tal. Haveli, Dist. Pune (now under suspension) )  
R/at A, 802, Noncy Lake Home Society, Katraj, )  
Pune. )... **Applicant**

**Versus**

The State of Maharashtra, through Additional )  
Chief Secretary, Revenue & Forest Dept., )  
(Revenue), Mantralaya, Mumbai 400 032. )...**Respondents**

Shri Arvind V. Bandiwadekar, learned Advocate for the Applicant.  
Smt. Archana B. K., learned Presenting Officer for the Respondent.

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

**DATE : 28.03.2023.**

**ORDER**

1. The Applicant has challenged the legality of suspension order dated 09.12.2022 *inter alia* contending that she acted as a quasi-judicial authority while giving effect to the order dated 31.01.2018 passed by the Government but she is made scapegoat and suspended on the allegation that she did not take appropriate precaution before ordering mutation entries and secondly though the period of 90 days is already over from the date of suspension neither review is taken nor Government has issued charge sheet for the alleged misconduct or lapses attributed to her.

2. Briefly stated facts giving rise to the Original Application are as under:-

The Applicant is serving in the cadre of Tahsildar. She was Tahsildar in Pune City from 20.02.2019 to 09.05.2021 and thereafter she was transferred as Tahsildar, Haveli, Pune where she joined on 11.05.2021. The Government by order dated 09.12.2022 suspended her invoking Rule 4(1)(a) of Maharashtra Civil Services (Discipline & Appeal) Rules, 1975 in contemplation of D.E. primarily for failure to take necessary precaution/guidance from the concerned while taking entries of mutation in respect of land survey no.62 of Hadpasar, Tal. Haveli, Dist. Pune. The relevant contents of suspension order i.e. para 1 and 2 are material which are as under :-

" ज्याअर्थी विभागीय आयुक्त, पुणे यांनी संदर्भिय क्र.१ येथील दि.०२.०२.२०२२ रोजीच्या पत्रान्वये सादर केलेल्या अहवालावरून श्रीमती तृप्ती कोलते, तहसीलदार हवेली, जि.पुणे यांनी मौजे-हडपसर, ता.हवेली, जि.पुणे येथील सं.नं.६२ या जमिनीबाबतच्या तत्का.मा.मंत्री (महसूल) यांच्या आदेशाची खातरजमा न करता तसेच, शासनाच्या पूर्व परवानगीशिवाय, जिल्हाधिकारी, पुणे यांचे आवश्यक असणारे मार्गदर्शन/अभिप्राय/आदेश प्राप्त न करता कार्यक्षेत्राच्या बाहेर जाऊन संबंधित अर्जदारास राखीव वन या संवर्गातील जमीन अनाधिकाराने प्रदान केल्याचा आदेश दिनांक १२.०७.२०२१ रोजी पारित केला असल्याचे दिसून आहे आहे.

त्याचबरोबर विभागीय आयुक्त, पुणे यांनी संदर्भिय क्र.२ येथील दि.२३.०९.२०२२ रोजीच्या पत्रान्वये सादर केलेल्या अहवालावरून श्रीमती तृप्ती कोलते, तहसीलदार हवेली, जि.पुणे यांनी कोव्हिड-१९ या विषाणूच्या संसर्जन्य गंभीर परिस्थितीत जिवनावश्यक वस्तुंची खरेदी करताना व आवश्यक सेवासुविधा प्राप्त करून घेताना उदयोग, उर्जा व कामगार विभागाच्या दि.०१.१२.२०१६ रोजीच्या शासन निर्णयातील तरतुदीनुसार विहित कार्यपध्दतीचा अवलंब न करून वित्तीय अनियमितता केल्याचे निदर्शनास आले आहे. तसेच, विभागीय आयुक्त, पुणे यांनी संदर्भिय क्र.३ येथील दि.०२.६.२०२२ रोजीच्या पत्रान्वये सादर केलेल्या अहवालावरून श्रीमती तृप्ती कोलते, तहसीलदार तथा व्यवस्थापकीय अधिकारी, पुणे शहर यांनी श्री.प्रकाश बिजलानी व इतर यांच्या प्रकरणात नियमबाह्य पध्दतीने कामकाज केले असल्याचे दिसून आहे आहे. याशिवाय श्रीमती कोलते यांच्याविरुद्ध निवडणूकविषयक कामकाजाच्या अनुषंगाने प्राप्त तक्रारी या गंभीर स्वरूपाच्या असल्याचे निदर्शनस आलेले आहे."

3. The background of the matter which leads to suspension is that one Prakash Dagadu Chavan and Kondiba Shitkal were asserting ownership over land survey no.62 and measuring 7 hectare of 68 R of Mouje Hadpasar, Tal. Haveli, Dist. Pune. Time and again, they made representations to the Government to transfer the land in their names since in revenue record, it was shown as a lease old land. However, the

representations and grievances made by them were not responded and therefore, Shri Chavan had filed W.P. No.8953/2012 before the Hon'ble High Court which was disposed of on 24.09.2012 giving certain directions. Thereafter, the Government seems to have passed one order on 29.04.2015 (it is not on record). Being aggrieved by it, Shri Chavan again filed W.P. No.2308/2016 before the Hon'ble High Court which was disposed of on 18.10.2016. The Hon'ble High Court observed that before passing order, no opportunity of hearing was given to the claimants and accordingly the order was set aside and directions were given to Government to pass order afresh after giving hearing to the party. Accordingly, the Government (the then Minister Shri Chandrakant Patil) passed an order on 09.12.2022 (it is referred to as 1st order hereinafter since there is controversy about genuineness of the said order). The order is at page no.49 to 61 of PB. The Hon'ble Minister dealt with the contentions raised by the claimants and observed that the provisions of Forest Conservation Act, 1980 are not applicable and invoked Rule 14(1)(c)(1) of Maharashtra Land Revenue (Disposal of Government Land) Rules, 1971 and accordingly passed an order on 31.01.2018 allowing the claim of the claimants. The operative order of the order dated 31.01.2018 is as under :-

"

**आदेश**

- अ. अर्जदार यांचा अर्ज मान्य करण्यात आला आहे.
- ब. अर्जदार यांना मौजे हडपसर येथील ग.नं.६२ पैकी अर्जदार नं.१ यांना ९ एकर २९ गुंठे व अर्जदार नं.२ यांना ९ एकर १० गुंठे क्षेत्र कायमस्वरूपी मालकीहक्काने प्रदान करण्यात येत आहे.
- क. महाराष्ट्र जमीन महसूल (सरकारी जमिनीची विल्हेवाट लावणे) नियम १९७१ चा नियम १४(१) C (१) अन्वये आकाराच्या सहापट एकडे भोगाधिकार मूल्य आकारण्यात यावे.
- ड. खर्चाबाबत ओदश नाहीत.''

4. It is in pursuance of the aforesaid order, the claimants Shri Chavan and Shitkal made an applications to Tahsildar, Haveli on 05.04.2021 for implementation of the order of Government. The office prepared the note sheet which is at page no.62 to 67 and placed it before the Applicant. The Applicant made endorsement to take legal opinion from the Collector office, Pune in reference to the Maharashtra Land Revenue Code (Disposal of Government Land), Rules 1971. At the same time, she sought directions from the Collector by letter dated 21.06.2021 as to whether the land can be allotted in terms of order tendered by the claimant (Page 68 of PB). The Law Officer, Collector Office, Pune gave his opinion by letter dated 22.06.2021 that in terms of order dated 31.01.2018, it can be implemented subject to decision of pending suit/writ petitions. The last para of the letter dated 22.06.2021 is material which is as under :-

" मा.महसूल मंत्री यांचेवरील आदेशाची अंमलबजावणी करणे आवश्यक आहे. तथापि सदर प्रकरणी दावा मिळकतीचे बाबतीत मा.उच्च न्यायालय येथे रिट पिटीशन प्रलंबित आहेत असे आपले पत्रात नमूद आहे. सबब मा.महसूल मंत्री यांचे आदेशाची अंमलबजावणी करणेपूर्वी प्रलंबित असलेल्या रिट पिटीशनमध्ये होणारे न्यायनिर्णय हे अर्जदार यांचेवर बंधनकारक राहिल तसेच दावा मिळकतीबाबत इतर कोणतेही वाद उत्पन्न झाल्यास त्यामध्ये होणारे निर्णदेखील अर्जदार यांचेवर बंधनकारक राहतील अशा आशयाचे प्रतिज्ञापत्र अर्जदार यांचेकडून घेणे उचित होईल. तसेच सदरच्या आदेशाप्रमाणे ७/१२ सदरी अंमल देणेचा असल्यास प्रलंबित दावे / रिट पिटीशनचे निकालास अधिन राहून देणेत येणे उचित होईल असे या कार्यालयाचे मत आहे. तसेच सदर वर नमूद नियमाप्रमाणे सहापट एवढे भोगाधिकार मूल्य आकारण्यात येणे आवश्यक आहे. तथापि पुढील योग्य ती कार्यवाही आपले स्तरावर करणेत यावी."

5. Shri Popat Shitkal accordingly, submitted Affidavit before the Applicant that order be implemented subject to decision in pending matters and he would abide by the final decision in the pending matters.

6. It is on the above background, the Applicant passed detailed order on 12.07.2021 mentioning history of litigation and the copy of order was issued to Talathi for further action. In order, it is further stated that mutation process be carried out in terms of rules. Accordingly, mutation was carried out by Talathi and it was certified by the Circle Officer.

7. Thereafter, news was published in Lokmat paper dated 04.09.2021 as "चंद्रकांत पाटील यांच्या खोट्या आदेशाने हडपसमधील १८ एकर हडपण्याचा प्रयत्न. However, there was lull in the matter from government side for one year which is quite intriguing.

8. On the contrary, when Applicant came to know about the news published in Lokmat dated 04.09.2021, she immediately rushed to Mantralaya to verify the correction of the order dated 31.01.2018 which was tendered before her for taking mutations. It is that time, she was given order passed by Shri Chandrakant Patil, Revenue Minister dated 31.01.2018 whereby the claim of Chavan and Shitkale families for getting land for agricultural purpose has been rejected (The said order is at page nos.92 to 97 of PB ). The Applicant then immediately lodged FIR on 02.09.2021 against the claimants and offences under Section 420, 465, 467, 468 and 471 of IPC were registered against them on the allegations that claimants produced forged order of the Government and got mutation effected in their names. Then immediately she made report to the Deputy Conservator of Forest, dated 30.08.2021 (page 108 and 109 of PB) as well as to SDO on 30.08.2021. She again took review of the mutation entries which were effected in terms of 1st order of the Government dated 31.01.2018 and restored the position as existed before taking those mutation entries. The names of Shri Chavan and Shitkale families were deleted and land was shown in the name of Government. Not only that she wrote letter to District Registrar, registration of documents on 30.08.2021 that no document in respect of land survey no.62 should be registered if presented for registration by claimant or any other persons.

9. Nothing happened for about one year and thereafter abruptly the Government by letter dated 09.12.2022 suspended the Applicant attributing failure to take precaution while carrying out mutation entries which is under challenge in the present O.A.

10. Later, it was come to the notice of the Applicant that while carrying out mutation entries, Talathi recorded the claimants name as Occupant Class 1. She, therefore, immediately call explanation of Circle Officer by letter dated 30.08.2021. The Circle Officer by his reply dated 30.08.2021 admitted the mistake stating it happened inadvertently and entries of Reserve Forest Land is also deleted inadvertently. He, accordingly corrected the entry while mutation no.51458 as Occupant Class II.

11. Shri Arvind V. Bandiwadekar, learned Counsel for the Applicant in reference to the facts as narrated above sought to assail the legality of the suspension order inter alia contending that all that Applicant implemented the order purportedly passed by the Government after taking legal opinion from the Law Officer as well as after undertaking from the claimants in pursuance of legal opinion. Learned Counsel for the Applicant, therefore, submits that since the Applicant found nothing *prima-facie* suspicious in the order tendered before her she acted in quasi-judicial authority and no malafide or misconduct can be attributed much less for suspension. As regard second part about some irregularities attributed to the Applicant while she was Tahsildar, Pune, he has pointed out that those are stale and old instances for which the Applicant has already submitted explanation at that time itself but those were now again dug up only to suspend the Applicant. On this line of submission, he vehemently urged that the Applicant is simply made scapegoat and also pointed out that steps taken by the Applicant subsequent to the reporting of the matter in news paper as a remedial measure shows her bonafide. He, therefore, submits that there was no such case or material to suspend the Applicant and suspension is out come to non-application of mind. He further pointed out that there are no allegations of availing any monetary benefits to the Applicant in the said transaction and all that Applicant passed the order as quasi-judicial authority. He has further raised grievance of prolong suspension which has already exceeded 3 months without taking review of the matter or initiation of departmental enquiry. In reference to the decision of the

Hon'ble Supreme Court in **(2015) 7 SCC 291 (Ajay Kumar Choudhary Vs. Union of India & Anr.)** he, submits that suspension exceeding three months without taking review or initiation of D.E. is totally impermissible and Applicant is liable to be reinstated in service by setting aside the suspension order.

12. Per contra, Smt. Archana B. K., learned P.O. sought to justify the suspension order *inter-alia* contending that since there were certain disputes pending in the form of W.Ps to which the Applicant was aware, she ought to have ascertained the veracity and genuineness of the order dated 09.12.2022 purportedly issued by Government before ordering mutation. She further raised plea that though the order passed by the Government was passed on 31.01.2018, the claimant made an application after three years and Applicant ought to have taken note of three years delay which was sufficient to raise doubt about the veracity or genuineness of the order passed by the Government. On this line of submission, she urged that there is failure to take reasonable precaution while carrying out the mutation entry of land and, therefore, she was rightly suspended in contemplation of D.E.

13. When the Tribunal raised specific query to learned P.O. about initiation of D.E. or review of suspension, she fairly concedes that till date neither review is taken by the authority nor charge sheet is issued against the Applicant in D.E. Thus, the fact remains that though the period of more than three months is over, the Applicant is subjected to continuous prolong suspension which is frowned upon by the Hon'ble Supreme Court in **Ajay Kumar Choudhary's** case (cited supra).

14. At this juncture, it would be apposite to note the instructions laid down in Departmental Manual laying down the principle to be borne in mind while placing the Government servant under suspension, which are as follows :

**“2.1** When a Government Servant may be suspended.- Public interest should be the guiding factor in deciding to place a Government servant under suspension. The Disciplinary Authorities should not suspend a

Government servant lightly and without sufficient justification. They should exercise their discretion with utmost care.

Suspension should be ordered only when the circumstances are found to justify it. The general principle would be that ordinarily suspension should not be ordered unless the allegations made against a Government servant are of a serious nature and on the basis of the evidence available there is a *prima facie* case for his dismissal or removal or there is reason to believe that his continuance in active service is likely to cause embarrassment or to hamper the investigation of the case. In other cases, it will suffice if steps are taken to transfer the Government servant concerned to another place to ensure that he has no opportunity to interfere with witnesses or to tamper with evidence against him.

(i) By way of clarification of the general principle enunciated above, the following circumstances are indicated in which a Disciplinary Authority may consider it appropriate to place a Government servant under suspension. These are only intended for guidance and should not be taken as mandatory :-

(i) Cases where continuance in office of a Government servant will prejudice the investigation, trial or any inquiry (e.g. apprehended tampering with witnesses or documents);

(ii) where the continuance in office of a Government servant is likely to seriously subvert discipline in the office in which the Government servant is working;

(iii) where the continuance in office of a Government servant will be against the wider public interest (other than the cases covered by (i) and (ii) above) such as, for instance, where a scandal exists and it is necessary to place the Government servant under suspension to demonstrate the policy of Government to deal strictly with officers involved in such scandals, particularly corruption;

(iv) where allegations have been made against a Government servant and the preliminary enquiry has revealed that *prima facie* case is made out which would justify his prosecution or his being proceeded against in departmental proceedings, and where the proceedings are likely to end in his conviction and/or dismissal, removal or compulsory retirement from service.

In the first three circumstances enumerated above, the Disciplinary Authority may exercise his discretion to place a Government servant under suspension even when the case is under investigation and before a *prima facie* case has been established.”

15. In continuation of the aforesaid guidelines, it would be useful to refer the observations made by Hon'ble Bombay High Court in **1987 (3) Bom.C.R. 327 (Dr. Tukaram Y. Patil Vs. Bhagwantrao Gaikwad & Ors.)**, which are as follows :-

*“Suspension is not to be resorted to as a matter of rule. As has been often emphasized even by the Government, it has to be taken recourse to as a last resort and only if the inquiry cannot be fairly and satisfactorily completed unless the delinquent officer is away from his post. Even then, an alternative arrangement by way of his transfer to some other post or place has also to be duly considered. Otherwise, it is a waste of public money and an avoidable torment to the employee concerned.”*

16. Similarly, reference was made to the Judgment of Hon'ble Supreme Court in **1999(1) CLR 661 (Devidas T. Bute Vs. State of Maharashtra)**. It would be apposite to reproduce Para No.9, which is as follows :-

*“9. It is settled law by several judgments of this Court as well as the Apex Court that suspension is not to be resorted as a matter of rule. It is to be taken as a last resort and only if the inquiry cannot be fairly and satisfactorily completed without the delinquent officer being away from the post.”*

17. The learned Advocate for the Applicant also placed reliance on the decision of Hon'ble Supreme Court in **(2013) 16 SCC 147 [Union of India & Anr. Vs. Ashok Kumar Aggarwal]**. In Para Nos. 21 and 22, Hon'ble Supreme Court held as under :-

*“21. The power of suspension should not be exercised in an arbitrary manner and without any reasonable ground or as vindictive misuse of power. Suspension should be made only in a case where there is a strong prima facie case against the delinquent employee and the allegations involving moral turpitude, grave misconduct or indiscipline or refusal to carry out the orders of superior authority are there, or there is a strong prima facie case against him, if proved, would ordinarily result in reduction in rank, removal or dismissal from service. The authority should also take into account all the available material as to whether in a given case, it is advisable to allow the delinquent to continue to perform his duties in the office or his retention in office is likely to hamper or frustrate the inquiry.*

*22. In view of the above, the law on the issue can be summarised to the effect that suspension order can be passed by the competent authority*

*considering the gravity of the alleged misconduct i.e. serious act of omission or commission and the nature of evidence available. It cannot be actuated by mala fide, arbitrariness, or for ulterior purpose. Effect on public interest due to the employee's continuation in office is also a relevant and determining factor. The facts of each case have to be taken into consideration as no formula of universal application can be laid down in this regard. However, suspension order should be passed only where there is a strong prima facie case against the delinquent, and if the charges stand proved, would ordinarily warrant imposition of major punishment i.e. removal or dismissal from service, or reduction in rank etc."*

18. Reliance is also placed on **2015(4) Mh.L.J. [State of Maharashtra Vs. Dr. Subhash Mane]** in support of submission that the order of suspension is not immune from judicial scrutiny and suspension order ordinarily should be passed when there is strong prima-facie case against the delinquent and if charges are proved, it would warrant imposition of major penalty. Hon'ble High Court in Para No.10 held as under :-

*"10. It was then contended by Mr. Sakhare that the Tribunal could not have gone into the merits of the charges and interfere with the order of suspension and the exercise was premature. He placed reliance on the decision of the Apex Court in the case of District Forest Officer v/s R. Rajamanickam & anr., reported in (2000) 9 SCC 284 and in the decision of the Division Bench of this Court in the case of Chandrakant Damodar Kale v/s Nagpur Improvement Trust, reported in 1993(3) Mh.L.J. 30 = 1997(4) Bom.C.R. 607. He contended that the State Government, as an employer, has a power to place employee under suspension under Rule 4(1)(a) of the Maharashtra Civil Services (Discipline and Appeal) Rules, when an enquiry against an employee is pending or is in contemplation. He submitted that the order of suspension is purely an administrative act and the Court is not entitled to examine the merits of the charges, which will be considered at the time of the enquiry. It is not possible to accept such an absolute proposition. Though it is the power of the Petitioner State to place an employee under suspension, the order of suspension is not immune from judicial scrutiny. An employee can always challenge the order of suspension on the ground that it is actuated by malafides, arbitrariness or that it is issued with an ulterior purpose. The suspension order ordinarily should be passed when there is strong prima facie case against the delinquent and if the charges are proved it would warrant an imposition of major penalty. This position has been made clear in the decision rendered by the Apex Court in the case of Union of India & anr. v/s Ashok Kumar Aggarwal, reported in 2014 (1) SCJ 115."*

19. From the aforesaid provisions, following judicial propositions are culled out.

- (i) Suspension should not be ordered unless the allegations made against the delinquent are grave and there is *prima-facie* case of major punishment of dismissal or removal from service.
- (ii) Suspension can be invoked where delinquent's continuation in active service is likely to hamper the investigation of crime or departmental proceedings.
- (iii) Suspension cannot be resorted to as a matter of rule and it can be invoked as a last resort where enquiry cannot be fairly and satisfactorily completed without delinquent being kept away from the post or his continuation in post is likely to cause embarrassment.
- (iv) Suspension order is not immune from judicial scrutiny and delinquent can challenge the suspension, if it is actuated by malafide, arbitrariness or where it is totally unwarranted in the facts and circumstances of the case.
- (v) The facts and circumstances of each case need to be taken into consideration as to whether suspension is warranted and there is no strait-jacket formula.

20. Bearing in mind the aforesaid judicial well settled legal principles now the question posed for consideration is whether in the facts and circumstances of the case, the suspension was really justified and legal one.

21. At the very outset, this is a case where two totally conflicting and contradictory orders passed on same dates are forthcoming. First order allowing the claim of the Applicants is at page 47 to 61 of PB. Notably, it bears signature of the then Revenue Minister Shri Chandrakant Patil at every page of the order. It also bears stamp of his name and department. It further reveals that it is certified copy issued by the Desk Officer on

30.03.2021. Apart, there is also seal of Government on each page of order. Whereas in contrast, there is another order passed by the same authority in same matter which is at page no.92 to 97 of PB whereby the claim of Shri Chavan and Shitkal family for allotment of land for agricultural purpose has been rejected. Notably, there is also endorsement that it is certified copy issued by the Desk Officer. All that Government in Affidavit in Reply comes with a pleading that first order dated 31.01.218 is forged order. However, Affidavit in Reply is silent as to what steps were taken by the Government against the concerned Desk Officer or any other person who issued the alleged forged order. The original file is also not produced before the Tribunal to find out what actually happened in the matter. As such, who issued the first order dated 31.01.2018 is in mystery.

22. Be that as it may, it is Applicant who after publication of news in the newspaper immediately took necessary steps for cancellation of mutation entries as well as lodged FIR against Shitkal and Chavan family. The Applicant did not find anything *prima-facie* suspicious in the order tendered before her and on that basis she proceeded further. This is not a case that she hastily passed the order only on the basis of order tendered by the claimants. She sought legal opinion and in pursuance of it, she acted upon as a quasi judicial authority. She also obtained undertaking from Chavan and Shitkal family and they would abide by the final decision in the matter as per the opinion given by the Law Officer. When she noticed that the Circle Officer exceeded limit by changing entries from occupant -2 to occupant -1 she immediately called explanation of Talathi as well as Tahsildar who admits their mistakes and accordingly corrections were carried out by restoring entry as occupant no.2. Apart, when another order of the Government rejecting the claim of claimants was surfaced, she lodged FIR against Shitkal and Chavan family as well as also made report to Forest Department, S.D.O. as well as Collector and by exercising powers of review cancelled all those mutation entries which were taken in pursuance of first order. In

such situation, the question would arise how the Applicant could be blamed so as to invite the suspension. Except alleging that the applicant did not observe necessary precautions, no other allegations of ill motive or malafide are attributed. The Respondents could not point out as to what more precaution the Applicant was expected to take before implementing the order dated 31.01.2018. In such situation, the suspension is hardly justified.

23. Even assuming for a moment that Applicant was supposed to take some more precaution in that event also in view of the steps taken by her, which amply shows her bonafide, it could not have been the case of suspension. The Department could have proceeded against her by initiating departmental proceeding without resorting to suspension. In any case, this could not be a case inviting any such major penalty of removal from service or dismissal from service so as to warrant the suspension.

24. In so far as second part of irregularity attributed to the Applicant while she was working as Tahsildar, Pune are concerned, those pertains to Covid-19 period for which she has already submitted her explanation which is at page nos.136 and 143 of PB. In respect of allegations in the matter of Akash Bijlani and irregularity in election work allegations made in suspension order are totally vague. The report of Commissioner dated 23.05.2022 and 02.06.2022 which are referred in suspension order are not produced on record to find out what are the exact allegations against the Applicant. In any case, those were old and stale instances while Applicant was working as Tahsildar, Pune from which post she was already transferred. Suffice to say, those instances could not have been the ground for suspension.

25. Furthermore, another issue of prolong suspension exceeding three months which is in contravention of the decision of the Hon'ble Supreme Court in **Ajay Kumar Chowdhary's** case. The Hon'ble Supreme Court held that the currency of suspension should not extend beyond three months if within this period the memorandum of charges is not served

on the delinquent officer, and if memorandum of charges is served, a reasoned order must be passed for the extension of the suspension.

26. Thus, the legal position in respect of prolong suspension is no more *res-integra* in view of the Judgment of Hon'ble Supreme Court In **Ajay Kumar Choudhary's** case (supra). It would be apposite to reproduce Para Nos.11, 12 and 21, which are as follows :

**“11.** *Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. If it is for an indeterminate period or if its renewal is not based on sound reasoning contemporaneously available on the record, this would render it punitive in nature. Departmental/disciplinary proceedings invariably commence with delay, are plagued with procrastination prior and post the drawing up of the memorandum of charges, and eventually culminate after even longer delay.*

**12.** *Protracted period of suspension, repeated renewal thereof, have regrettably become the norm and not the exception that they ought to be. The suspended person suffering the ignominy of insinuations, the scorn of society and the derision of his department, has to endure this excruciation even before he is formally charged with some misdemeanor, indiscretion or offence. His torment is his knowledge that if and when charged, it will inexorably take an inordinate time for the inquisition or inquiry to come to its culmination, that is, to determine his innocence or iniquity. Much too often this has become an accompaniment to retirement. Indubitably, the sophist will nimbly counter that our Constitution does not explicitly guarantee either the right to a speedy trial even to the incarcerated, or assume the presumption of innocence to the accused. But we must remember that both these factors are legal ground norms, are inextricable tenets of Common Law Jurisprudence, antedating even the Magna Carta of 1215, which assures that – “We will sell to no man, we will not deny or defer to any man either justice or right.” In similar vein the Sixth Amendment to the Constitution of the United States of America guarantees that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial.*

**21.** *We, therefore, direct that the 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. As in the case in*

*hand, the Government is free to transfer the person concerned 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 prepared 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 the 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.”*

27. Indeed, in deference to the Judgment of Hon'ble Supreme Court, the Government of Maharashtra had also issued Circular dated 19.07.2019 thereby giving clear instructions to all departments and it is instrumentalities to adhere the mandate of Hon'ble Supreme Court. However, it is totally ignored. Neither review was taken nor charge-sheet has been issued within 90 days. Even till date, no such steps are taken.

28. As such, in the facts and circumstances, it cannot be said that there was any such necessity or justification for suspension of the Applicant. It was not the case of Respondents that DE could not have been completed without placing the Applicant under suspension. The facts as narrated above clearly establishes the bonafide efforts taken by the Applicant after she came to know about the fraud played by Shri Chavan and Shri Shitkale families. No ill motive or anything doubting integrity is attributed to the Applicant. She acted as a quashi judicial authority after taking reasonable precaution. Suspension is thus totally arbitrary and unsustainable in law.

29. The cumulative effect of aforesaid discussion leads me to sum-up that in the given set of facts, suspension was not at all warranted and it is nothing but outcome of suspension syndrome. The suspension order is, therefore, liable to be quashed and set aside. The Applicant is required to be reinstated on a post she was holding at the time of suspension. Hence, the order.

**ORDER**

- (A) The Original Application is allowed.
- (B) Suspension order dated 09.12.2022 is quashed and set aside.
- (C) Respondents are directed to reinstate the Applicant immediately on a post she was holding at the time of suspension within two weeks from today with all consequential service benefits.
- (D) No order as to costs.

Sd/-

**(A.P. Kurhekar)**  
**Member (J)**

*Place: Mumbai*

*Date: 28.03.2023*

*Dictation taken by: Vaishali Santosh Mane*

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