

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**NAGPUR BENCH, NAGPUR**

**ORIGINAL APPLICATION NO.657/2017.**

**(S.B.)**

Bhaskar Rajaram Ingle,  
Aged about 43 years,  
Occ-Service as Agriculture Assistant.  
At Main Office, Shirla, Patur  
under the office of Taluka Agriculture Officer,  
Patur, District Akola.

**Applicant.**

**-Versus-**

1. The State of Maharashtra,  
Through its Secretary,  
Department of Agriculture, Animal Husbandry,  
Dairy Development and Fisheries,  
Mantralaya, Mumbai-400 032.
2. The Collector,  
Akola.
3. The District Superintending Agriculture Officer,  
Akola.

**Respondents**

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Shri Y.P. Kaslikar, Ld. Advocate for the applicant.  
Shri P.N. Warjekar, the Ld. P.O. for the respondents.

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

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**JUDGMENT**

(Delivered on this 9<sup>th</sup> day of April, 2018.)

Heard Shri Y.P. Kaslikar, the learned counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondents.

2. The applicant has challenged the impugned order of his suspension dated 11.8.2017 issued by respondent No.2. The applicant has received the said order on 22.8.2017.

3. According to the applicant, the aforesaid order of his suspension is *ultra vires* and the respondent No.2 i.e. the Collector, Akola was having no authority to issue such order.

4. The applicant is serving as an Agriculture Assistant at Shirla, Patur under the office of Talukak Agriculture Officer, Patur, District Akola. The respondent No.2 is neither the appointing authority nor the superior authority of the applicant and inspite of having no authority, has issued the impugned order whereby the applicant has been kept under suspension. It is, therefore, prayed that the said order be quashed and set aside and the applicant be reinstated in service.

5. The respondent Nos. 2 and 3 have tried to justify the order. It is stated that before issuing the order of suspension, the respondent No.3 the District Superintending Agriculture Officer,

Akola had issued a show cause notice to the applicant on 21.4.2017 (Annexure A-3). The second notice was issued on 7.6.2017. However, the applicant did not submit his explanation to both the notices. It is stated that as per G.R. dated 19.3.2016, the respondent No.2 is the Head of the Department and the Disciplinary Authority and, therefore, the respondent No.2 has been authorized to take action against the applicant. The applicant, on 7.4.2017 had issued a letter to the Taluka Agriculture Officer, Patur, a copy of which is given to one Shri Sanjay Surwade, Civil Engineer, Kapil Vastu Nagar, Akola and the said letter shows that the applicant has committed misconduct. It is further alleged that, the applicant had handed over confidential correspondence and letters issued by Shri Eknath Gaval, Agriculture Assistant and letters of the Taluka Agriculture Officer, Patur dated 15.7.2013, 14.8.2013, 10.3.2014 and 15.4.2014 and letters of Sub-Divisional Agriculture Officer, Akola dated 6.5.2014, 27.1.2014 and 6.6.2014. These letters, *prima facie* disclose misconduct. He has not submitted his attestation of Civil Surgeon, General Hospital, Akola to the medical certificate and, therefore, he was kept under suspension.

6. It is an admitted fact from the record that the applicant belongs to Agriculture Department and is under directly under the

control of the Collector, Akola. The Collector, Akola is not admittedly the appointing authority and disciplinary authority of the applicant. The learned P.O. invited my attention to one G.R. dated 19.3.2016 (Annexure R-1, Page Nos. 26 & 27 (both inclusive)). He submitted that as per the said letter and particularly Clauses 6 and 7 of the said letter, the Collector, Akola is authorized to take action against the employees including the applicant. The said clauses are as under:-

“६. उपरोक्तप्रमाणे जिल्हाधिकारी आणि विभागीय आयुक्त यांनी दिलेल्या निर्देशांकडे दुर्लक्ष होत असल्यास किंवा योजना / कार्यक्रम यांच्या कामात हयगय होत असल्यास महाराष्ट्र नागरी सेवा (वर्तणूक) नियम, १९७९ व महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम, १९७९ अन्वये सम्बंधीताविरुद्ध विभागीय चौकशी प्रस्तावित करण्याचे अधिकार जिल्हाधिकारी यांना विभागप्रमुख / शिस्तभंगविषयक प्राधिकारी म्हणून असतील.

७. वरीलप्रमाणे जिल्हाधिकारी यांना विभागप्रमुख म्हणून अधिकार प्रदान करूनही सर्व विभागातील जिल्हा प्रमुख / विभाग प्रमुख / शिस्तभंगविषयक प्राधिकारी यांना असलेले प्रशासकीय अधिकार अबाधित राहतील.”

7. The very introductory clause of the said G.R., however, shows that the Collector has been authorized to review the

confidential reports of the employees working under scheduled area.

The introductory clause reads as under:-

“अनुसूचित क्षेत्रातील जिल्हाधिकारी यांना अनुसूचित क्षेत्रात कार्यरत असलेल्या गट-“अ” व गट-“ब” संवर्गातील अधिकारी / कर्मचारी यांचे गोपनीय अहवाल प्रतीवेदित आणि पुनर्विलोकन करण्याचे अधिकार संदर्भाधीन शासन निर्णयान्वये प्रदान करण्यात आले आहेत.”

8. The learned counsel for the applicant, however, invited my attention to the reference of the G.R. dated 15.10.2015 and the G.R. dated 19.3.2016. It seems that the G.R. dated 15.10.2015 is the basic G.R. and the G.R. dated 19.3.2016 is the subsequent G.R. A copy of the basic G.R. dated 15.10.2015 is placed on record at page Nos. 28 to 32 (both inclusive). Perusal of the said G.R. shows that the Collector, Akola was authorized to write and review the confidential reports of the officers of Group-A and Group-B working under him in scheduled area. The list of scheduled area is at Annexure A-1 of the said G.R. and this annexure does not show Akola District where the applicant is working. Thus, *prima facie* it seems that the G.R. dated 15.10.2015 is not applicable to Akola District, since it is not a scheduled area as mentioned in the said G.R. In view of this, the G.R. dated 19.3.2016 also will not be

applicable to Akola District, since Akola District is not a scheduled area.

9. Perusal of the G.Rs dated 19.3.2016 and 15.10.2015 as referred to above further shows that the Collectors have been delegated with the powers as Head of the Department for the scheduled area for writing and reviewing the C.Rs of the officers only. As per Clause (7) of the G.R. dated 19.3.2016 (Annexure A-1), the Collector can only propose the departmental enquiry against the officers working under his control under the particular schemes to be implemented and it is specifically stated that all other powers of the concerned Heads of the Department of such employees will be intact. This G.R. nowhere gives authority to the Collector to keep the employees of other departments under suspension. Thus, it is clear that the Collector has no authority to issue an order of suspension in respect of the applicant who was working in the Agriculture Department, as the said department does not fall directly under the jurisdiction of the Collector. Even for the sake of argument, if it is accepted that the applicant was working under the Collector, Akola for a particular scheme of the Government, the Collector has only authority to write / review the C.Rs of the

applicant and nothing more than that. The impugned order of suspension, therefore, *prima facie* seems to be without authority.

10. The impugned order of suspension has been issued on 11.8.2017 and till today, the applicant continued to be under suspension. No specific order has been passed, giving reasons for continuation of suspension order of the applicant beyond 90 days. On this count also, in view of directions issued by the Apex Court in case of **Ajay Kumar Choudhari V/s Union of India and others**, suspension order cannot be continued beyond 90 days. Reason for suspension, as seen from the order is that the show cause notices were issued to the applicant by the Assistant Agriculture Officer and the applicant did not reply to the said show cause notices. The applicant has placed on record the copies of the said show cause notices received by him which are at para Nos. 2 and 3, Page Nos. 59 & 60 respectively. Copies of the said notices are not even sent to the Collector, Akola, therefore, it is not known as to how the Collector, Akola came to know about issuance of such notices to the applicant.

11. On a conspectus of discussion in foregoing paras, in my opinion, the order of suspension in respect of the applicant is illegal

and in any case it cannot be continued beyond the period of 90 days. Hence, I proceed to pass the following order:-

**ORDER**

- (i) The O.A. is allowed.
- (ii) The impugned order dated 11.8.2017, issued by respondent No.2 is quashed and set aside.
- (iii) The applicant shall stand reinstated in service forthwith, since the respondent No.3 was having no authority to keep the applicant under suspension.
- (iv) The respondents shall allow the applicant to work, as he was working prior to his suspension at the same place.
- (v) No order as to costs.

(J.D.Kulkarni)  
Vice-Chairman (J)  
9.4.2018.