

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.689 OF 2023**

**DISTRICT: RAIGAD  
SUB : Suspension**

Shri Dinesh Ramakant Gujrathi )  
Age:- 57 yrs, Occ. Circle Officer at )  
Kashele, Tal. Karjat, Dist. Raigad. )  
R/o. Neral Vidya Mandir, Neral, Tal. Karjat, )  
Dist. Raigad 410101. )... **Applicant**

**Versus**

The District Collector, Alibagh, near Heera - )  
Court Talav, Tal. Alibagh, Dist. Raigad. )...**Respondents**

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

Shri A. J. Chougule, learned Presenting Officer for the Respondents.

CORAM : Smt. Medha Gadgil, Member (A)

RESERVED ON : 29.11.2023

PRONOUNCED ON : 08.12.2023

**JUDGEMENT**

1. Heard Shri K.R. Jagdale, learned Counsel for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.

2. The Applicant was suspended by order dated 10.11.2022 on account of registration of crime under the provision of Prevention of Corruption Act, 1988 invoking Rule 4(1)(a) of Part II of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979. Learned Counsel for the Applicant prayed to quash and set aside the suspension order and for reinstatement of the Applicant in service forthwith.

3. Brief facts of the case are as under:-

The Applicant was working as Circle Officer at Kashele, Tal. Karjat, Dist. Raigad. On the basis of a complaint filed against the Applicant before the Anti-Corruption Bureau(ACB), the Applicant was caught red handed by the ACB on 02.11.2022 while accepting a bribe of Rs.7,000/- and after the Panchanama an FIR was lodged on 03.11.2022 at Karjat Police Station under C.R. No.344/2022 under Section 7 of the provisions of Prevention of Corruption Act, 1988. The Applicant was arrested on 03.11.2022 and granted bail on 07.11.2022. The Respondent suspended the Applicant on 10.11.2022 on the ground of registration of said C.R.No.344/2022.

4. Learned Counsel for the Applicant challenges the suspension order dated 10.11.2022 mainly on the ground of prolong suspension and on the ground that no D.E. has been initiated against him. The Applicant preferred a representation for reinstatement in service after three months of order of suspension. Learned Counsel further points out that the charge sheet in D.E. dated 27.02.2023 was served on the Applicant on 08.03.2022 on the basis of same charges which were levelled in the criminal case. The Applicant further made representation to Divisional Commissioner, Konkan Division on 13.03.2023 pointing out that he is going to retire in a year. Therefore, learned Counsel prayed that Applicant should be reinstated in service subject to pending criminal case as per the provisions of G.R. dated 14.10.2011.

5. Learned Counsel for the Applicant relies on the ratio laid by the Hon'ble Supreme Court in **(2015) 7 SCC 291 (Ajay Kumar Choudhary Vs. Union of India & Anr.)** and **State of Tamil Nadu Vs. Pramod Kumar and another (Civil Appeal No.2427-2428 of 2018) dated 21<sup>st</sup> August, 2018.**

6. Learned Counsel for the Applicant further pointed out that though the charge sheet was issued on 08.03.2022, no further steps were taken

for its completion and resultantly Applicant is subjected to prolong suspension. He has further pointed out that the Respondent has not taken review of the suspension as mandated by the Hon'ble Supreme Court in **Ajay Kumar Choudhary's case** and instructions contained in G.R. dated 14.10.2011. He, therefore, prayed to revoke suspension and for reinstatement of the Applicant in service.

7. Learned Counsel for the Applicant also relies on G.R. dated 09.07.2019 issued by G.A.D. wherein it is directed that where a Government servant is placed under suspension, the order of suspension should not extend beyond 3 months, if within this period the charge sheet is not served on the charged officer.

8. Per contra, learned P.O. opposes the submission made by the learned Counsel for the Applicant and relies on the Affidavit in Reply filed on behalf of Respondent, dated 25.07.2023. He pointed out that the Applicant has suppressed material facts and that the earlier FIR bearing No.3/2015 for offence punishable under section 464, 465, 468 and 471 of IPC was registered against the Applicant who was co-accused and pertaining to the said offence Special ACB case no.228/2019 is still pending before the District Judge-3 and Additional Sessions Judge, Panvel. Accordingly, it was submitted that Applicant was also suspended during 20.06.2015 to 25.09.2017 for the said crime as per the provisions of Rule 4(1)(c) Part II of Maharashtra Civil Services (Discipline and Appeal) Rules 1979. The D.E. in this regard was started on 23.11.2016 and it is still pending for decision in Special ACB Case No.228/2019.

9. Learned P.O. further pointed out that the D.E. has been initiated against the Applicant and a decision regarding reinstatement of Applicant can be taken by the Respondents only after receipt of such recommendation from Konkan Divisional Suspension Review Committee as per G.R. dated 14.10.2011. The said Konkan Divisional Suspension Review Committee in its meeting held on 30.06.2023 took a decision to continue the suspension as charges levelled against him were serious.

The Divisional Commissioner, Konkan Division sought report from the Respondent and who has submitted its report vide letter dated 20.06.2023. However, the Konkan Divisional Suspension Review Committee vide letter dated 30.06.2023 informed that said Committee had taken a decision regarding continuation of suspension of Applicant.

10. The legal position in respect of prolonged suspension is no more res-integra in view of the judgment of the Hon'ble Supreme Court in **Ajay Kumar Choudhary's case** (supra). In Para 86 of the judgment the Hon'ble Supreme Court has listed 15 propositions to serve as guidelines, the most quoted among them is the proposition listed at serial number 14 which is reproduced as under-

*“We, therefore, direct that the currency of Suspension Order should not extend beyond three months if within this period the Memorandum of Charges / Charge- sheet is not served a reasoned order must be passed for extension of the suspension. ....We recognize that previous constitution benches have been reluctant to quash proceedings on ground of delay, and to set time limit to their duration. However, the imposition of time limit has not been discussed in prior case laws, and would not be contrary to the interest of justice.....”.*

11. Considering the above facts and circumstances of the case, the Original Application deserves to be disposed of with suitable directions. Hence, I pass the following order :-

**ORDER**

- (A) Original Application is partly allowed.
- (B) The Review Committee is directed to take decision regarding review of suspension of Applicant afresh within four weeks from today 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/-

**(Medha Gadgil)**  
**Member (A)**

Place: Mumbai

Date : 08.12.2023

Dictation taken by: Vaishali Santosh Mane

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