

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.786 of 2020**

**District : Sangali**

Shri Amit S. Jadhav )  
Age 30 years, working as Police Patil )  
Village Karandwadi, Tal. Valva, Dist.Sangali )  
R/at Ranasangram Chowk, at & post )  
Karandwadi, Tal. Valva, Dist. Sangali 416301. )...**Applicant**

**Versus**

Sub Divisional Officer, Valva, Divisional )  
Islampur, Dist. Sangli. ) ...**Respondent**

Shri M. D. Lonkar, learned Advocate for the Applicant.  
Shri A.J. Chougule, learned Presenting Officer for the Respondent.

CORAM : Shri A.P. Kurhekar, Member-J

DATE : 23.02.2021

**J U D G M E N T**

In the present Original Application, the Applicant has challenged the suspension order dated 03.04.2020 whereby he was suspended in view of the registration of crime under Section 188, 505 (2) of IPC read with Section 52 and 54 of National Disaster Management Act, 2005 r/w Rule 11 of Covid-19 Regulations. The Applicant was Police-Patil, village Karandwadi, Tal. Valva, District Sangali. He allegedly circulated one message on WhatsApp pertaining to immigration of some persons of certain community and criticized the Government. On this background, offence under Section 188, 505(2) of IPC r/w Section 52, 54 of National Disaster Management Act, 2005 r/w Rule 11 of Covid-19 Regulations was registered against Shri Amit Kadam, Shri Rohit Nalawade, Shri Jaydeep Nikam and the Applicant. Consequently, the Applicant was arrested and released on bail. It is on this background, the Respondent No.1 - S.D.O. suspended the Applicant by order dated 03.04.2020

invoking the provisions of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 and Maharashtra Police Act, 1967.

2. The Applicant has challenged the suspension order contending that he is subjected to prolong suspension and despite filing of charge sheet in Criminal Case, no review is taken in terms of the decision of the Hon'ble Supreme Court in **(2015) 7 SCC 291 (Ajay Kumar Choudhary V/s Union of India & Ors)**.

3. After filing of Original Application, the matter was taken up for admission on 11.01.2021. The Tribunal having noticed that the Applicant is subjected to prolong suspension without any justifiable reason and directed the Respondent to take review of suspension within six weeks and submit the compliance report by today. However, no compliance report is submitted and the Applicant is continued under prolong suspension.

4. Shri M. D. Lonkar, learned Counsel for the Applicant submitted that the period near about one year is over. The Applicant is subjected to prolong suspension without taking review of suspension despite specific directions of the Tribunal.

5. Needless to mention that in view of the decision of the Hon'ble Supreme Court in **Ajay Kumar Choudhary's** case (cited supra), the suspension beyond 90 days is impermissible, the Hon'ble Supreme Court in para no.21 held as follows:-

*" 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 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 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."*

6. Admittedly, in Criminal Case, the police had filed the charge sheet and it is subjudice in the court. The Respondent have not initiated any other action against the Applicant. The period of near about 10 to 11 months is over from the date of suspension but no review is taken by the Respondent to see whether further suspension is justified or otherwise.

7. The Applicant was suspended only on the allegation of circulation of certain messages on WhatsApp group which had potential to spread hatred in society.

8. Be that as it may, since the period of 11 to 12 months is over, no purpose would be served by continuing the Applicant under suspension. In any case, in view of the decision of the Hon'ble Supreme Court, the Respondent is under obligation to take review of suspension after expiration of the period of 90 days.

9. In view of above, Original Application can be disposed of with suitable directions. Hence the following order:-

**ORDER**

(A) Original Application is disposed of with direction to Respondent to take review of suspension of the Applicant within two week from today and to pass appropriate order in accordance to law.

- (B) In case, the Respondent fails to take review of suspension within stipulated period, the Applicant's suspension would be deemed, revoked and he shall be entitled for reinstatement in service.
- (C) No order as to costs.

**Sd/-**  
**(A.P. KURHEKAR)**  
**MEMBER (J)**

Date : 22.02.2021  
Place : Mumbai  
Dictation taken by :  
Vaishali Santosh Mane  
Uploaded on :  
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