

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION 870 OF 2015**

**DISTRICT PUNE**

Shri Mohan Bhikaji Jare, )  
Working as Sub-Inspector, )  
State Excise, [under suspension], )  
Panvel-1, Dist-Raigad. )  
R/o: Panchanagar Housing Soc. )  
Chikhali, Tal-Haveli, Dist-Pune. )...**Applicant**

**Versus**

1. The Commissioner, )  
State Excise [M.S], Mumbai. )  
Having office at Old Custom )  
House, 2<sup>nd</sup> floor, Fort, )  
Mumbai 400 023. )
2. The State of Maharashtra, )  
Through Principal Secretary, )  
[Excise], Home Department, )  
Mantralaya, Mumbai 400 032. )...**Respondents**

Shri A.V Bandiwadekar, learned advocate for the Applicant.

Ms Neelim Gohad, learned Presenting Officer for the Respondents.

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**CORAM : Shri Rajiv Agarwal (Vice-Chairman)**

**DATE : 18.08.2016**

**ORDER**

1. Heard Shri A.V Bandiwadekar, learned advocate for the Applicant and Ms Neelim Gohad, learned Presenting Officer for the Respondents
2. This Original Application has been filed by the Applicant challenging the order dated 11.3.2105 by which the Applicant was placed under suspension in view of the criminal case no. 5/2015 registered against him at Panvel City Police Station under various sections of the Prevention of Corruption Act. The Applicant has also challenged order in appeal against the order of suspension dated 21.9.2015, passed by the Respondent no. 2 dismissing the appeal.
3. Learned Counsel for the Applicant argued that the Applicant was working as Sub-Inspector, State Excise at Panvel, Dist-Raigad, from 1.6.2013. Anti Corruption Bureau (A.C.B) raided the office of the Applicant and arrested him and registered C.R no. 5/2015 on the ground that a person collected Rs. 3000/- as bribe on behalf of the Applicant. The Applicant was produced before Special Judge, Alibaug, who released the Applicant

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on bail. The Respondent no. 1, has placed the Applicant under suspension under rule 4(1)(c) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979, by order dated 11.3.2015. The Applicant filed an appeal before the Respondent no. 2 against the order of suspension and by order dated 21.9.2015, the appeal was dismissed. The Applicant has, therefore, filed the present Original Application.

4. Learned Counsel for the Applicant argued that the Applicant had taken action against one Shri Nathuram Maruti Madari, who was running an illicit liquor den. This person, viz. Shri Madavi, made a complaint to the A.C.B who raided the office of the Applicant on 30.1.2015 and registered C.R no 5/2015 on 31.1.2015. Learned Counsel for the Applicant argued that the Respondent no. 1 was expected to apply his mind independently to the relevant record, facts and circumstances. However, the Respondent no.1 has blindly acted on the report of A.C.B as if report of A.C.B is fully binding on him. There was no direct trap. The allegation against the Applicant is acceptance of bribe of Rs. 3000/- through a third person. There is no strong evidence against the Applicant. Learned Counsel for the Applicant stated that the Respondent no. 2 has also rejected appeal against the order of suspension mechanically. Learned Counsel for the Applicant stated that Government has issued a Resolution (G.R) on



31.1.2015 regarding constitution of Review Committees to review cases of suspension. As per para 5 of the G.R dated 31.1.2015 the following facts are considered while reviewing suspension of an employee, who is placed under suspension, when a criminal case is pending against him viz.

“(१) संबंधित अधिकारी यांच्याविरुद्ध सक्षम न्यायालयात अभियोग चालविण्यास सक्षम प्राधिका-यांनी मंजूरी दिलेली असावी.

(२) संबंधित अधिकारी यांच्याविरुद्ध विभागीय सुरु करण्यात येऊन दोषारोपपत्र बजावण्यात आलेले असावे.

(३) संबंधित अधिकारी यांचा निलंबन कालावधी १ वर्षाहून अधिक झालेला असावा. वील निकषांची पूर्तता होत असल्यास अशा प्रकरणांमध्ये सकारात्मक विचार करण्यात येतो.”

For Group 'C' posts, Review Committee is headed by Divisional Commissioner and in case of the Applicant, it is the Divisional Commissioner, Konkan Division, Navi Mumbai. The case of the Applicant was placed before the Committee, but no decision has yet been taken by the said Committee.

5. Learned Presenting Officer (P.O) argued on behalf of the Respondents that the matter of suspension of the Applicant is pending before the Review Committee, headed by the Divisional Commissioner, Konkan Division and decision is likely to be taken shortly.

6. It is seen that the Respondent no. 1 has informed this Tribunal on 30.6.2016 that the Review Committee is expected to meet on 4<sup>th</sup> July, 2016. On 18.7.2016, this Tribunal noted that no decision from the Review Committee was forthcoming. Ultimately, the matter was finally heard on 2.8.2016.

7. The Applicant has been under suspension since 11.3.2015, i.e. more than one year and 5 months. It is expected that the Review Committee headed by Divisional Commissioner would take a decision regarding continuance of suspension of the Applicant in terms of G.R dated 31.1.2015 expeditiously.

8. As the matter is pending before the Review Committee, this Original Application is disposed of with the direction to the Divisional Commissioner, Konkan Division, to take decision regarding suspension of the Applicant expeditiously preferably within one month from the date of this order. Respondent no. 1 will apprise the Divisional Commissioner, Konkan Division about this order forthwith. There will be no order as to costs.

Sd/-

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**(Rajiv Agarwal)**  
**Vice-Chairman**

**Place : Mumbai**

**Date : 18.08.2016**

**Dictation taken by : A.K. Nair.**

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