

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 258 OF 2019**

DISTRICT: - NANDURBAR.

**Kishor Damu Kokani,**

Age-30 years, Occu. : Talathi,  
(Under Suspension), Presently attached  
to the Tehsil Office, Navapur,  
Tq. Navapur, Dist. Nandurbar.

.. APPLICANT.

**V E R S U S**

**1. The Collector,**

Nandurbar, District-Nandurbar.

**2. The Sub Divisional Officer,**

Nandurbar Division  
Nandurbar.

.. RESPONDENTS.

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**APPEARANCE** : Shri. V.B. Wagh, learned Advocate for the  
applicant.

: Shri V.R. Bhumkar – learned Presenting  
Officer for the respondents.

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**CORAM** : **JUSTICE A.H. JOSHI, CHAIRMAN**

**RESERVED ON** : **03.05.2019**

**PRONOUNCED ON** : **06.05.2019**  
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**O R D E R**

1. Heard Shri V.B. Wagh, learned Advocate for the applicant  
and Shri V.R. Bhumkar, learned Presenting Officer for the  
respondents.

2. The applicant has approached this Tribunal challenging : -

(i) The order of suspension;

and

(ii) The order dismissing the applicant's appeal termed suspension on the ground of delay.

3. The applicant has raised challenge of the suspension on the following grounds: -

*“III) At the outset, the respondent authorities had issued the memorandum under Rule 10 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 in respect of imposing minor punishment, but more than six months have been lapsed but no decision is being taken by the respondent authorities in respect of imposing the minor punishment also.”*

(Quoted from page No. 10 of the paper book of O.A.)

4. Learned Advocate for the applicant has placed reliance on the following judgments :

(a) AJAY KUMAR CHOUDHARY VS. UNION OF INDIA THROUGH ITS SECRETARY & ANR. [CIVIL APPEAL NO. 1912 OF 2015 ARISING OUT OF SLP NO. 31761 OF 2013 DATED 16<sup>TH</sup> FEBRUARY, 2015];

(b) SHRI PRAVIN VASANT KADAM VS. THE STATE OF MAHARASHTRA THROUGH PRINCIPAL SECRETARY, URBAN DEVELOPMENT DEPARTMENT, MANTRALAYA, MUMBAI [O.A. NO. 56 OF 2019 DATED 25.04.2019];

(c) SHRI RAJENDRA G. PANDEKAR VS. THE STATE OF MAHARASHTRA THOURGH ITS SECRETARY, REVENUE

AND FOREST DEPARTMENT, MANTRALAYA, MUMBAI-32  
AND ORS. [O.A. NO. 94 OF 2019 DATED 26.04.2019]

(D) O.A. No. 45/2019 (DATED 12.03.2019);

and

(d) KISHOR DAMU KOKANI VS. THE STATE OF  
MAHARASHTRA AND OTHERS [WRIT PETITION NO. 1372  
OF 2019 DATED 30<sup>TH</sup> JANUARY, 2019]

5. Though other grounds are raised, the ground quoted in foregoing paragraphs to the root of the case.

6. The order of issuance of notices to the respondents is passed on 19.03.2019 and time was granted to the respondents for filing affidavit in reply. Thereafter i.e. after service of notice again on 24.04.2019, further time was granted till today.

7. Today, the learned Presenting Officer prays for time for filing affidavit in reply. However, on facts of the case, grant of any further time is not warranted.

8. Perusal of the order of suspension reveals that the disciplinary proceedings were contemplated. The plea on which suspension order was issued it may be formally all rights to suspend since the enquiry was in contemplation, because the suspending authority may have visualized that the departmental enquiry in contemplation may eventually lead to major penalty.

9. Now, admittedly, the departmental enquiry has been initiated for minor penalty. Whenever, minor penalty is to be imposed, the continuation of suspension would be *ipso facto* rendered unjust and its continuation is grossly unjust, unfair and even arbitrary.

10. Hence, the suspension ought to have been reviewed in the light of the Government Resolution No. निप्रआ-११११/प्र.क.८६/११-अ dated 14<sup>th</sup> October, 2011 or even should have been reviewed by the SDO concerned suo motu.

11. Now in the background that, since charge sheet is served for minor penalty, the suspension turns out to be wholly unjustified, and the suspension deserves to be quashed and set aside at once.

12. In the result, the present Original Application is allowed. The suspension order is quashed and set aside. The applicant be reinstated within a period of 7 days from the date of this order.

13. In the facts and circumstances of the case, the parties are directed to bear their own costs.

**CHAIRMAN**

**PLACE : AURANGABAD.**

**DATE : 06.05.2019**

O.A.NO.258-2019(SB-suspension)-HDD-2019