

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.945 OF 2018**

**DISTRICT : HINGOLI**

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Shaikh Quddus S/o. Shaikh Lal,  
Age : 48 years, Occu. : Service  
(as Head Constable – Presently  
under suspension)  
R/o. Azam Colony,  
Dist. Hingoli.

**...APPLICANT**

**V E R S U S**

- 1) The State of Maharashtra,  
Through its Secretary,  
Home Department,  
M.S., Mantralaya, Mumbai-32.
- 2) The Special Inspector General of Police,  
Nanded Region, Nanded.
- 3) The Superintendent of Police,  
Hingoli.

**...RESPONDENTS**

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**APPEARANCE** : Shri S.D.Joshi, Advocate for Applicant.

: Shri N.U.Yadav, Presenting Officer for  
the Respondents.

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

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**RESERVED ON** : **09.05.2019.**

**PRONOUNCED ON** : **16.05.2019.**  
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**ORDER:**

1. Heard Shri S.D.Joshi learned Advocate for the applicant and Shri N.U.Yadav learned Presenting Officer for the respondents.
2. Applicant has approached this Tribunal with following prayers:

*“(A) This Original Application may kindly be allowed thereby quashing & setting aside the impugned order of suspension of the applicant dtd. 16/08/2018 (Annex. A-2) issued by Resp. No.3.*

*(B) This Original Application may kindly be allowed thereby directing the Resp. No.3 to forthwith revoke the order of suspension of the applicant dtd. 16/08/2018 (Annex. A-2) in the light of the rule & ratio laid down by the Hon’ble Apex Court in the case of Ajay Kumar Choudhary reported in 2015 (2) JT 487/ AIR 2015 SC 2389,.”*

(Quoted from paper book page 11 of O.A.)

Remaining prayers are consequential.

3. Applicant has been suspended by order dated 16-08-2018. Superintendent of Police (SP), Hingoli ordered preliminary enquiry at the hands of Sub Divisional Police Officer (SDPO), Vasmatnagar by order dated 18-08-2018. Report is submitted by the SDPO, Vasmatnagar on

07-01-2019. Superintendent of Police, Hingoli found various deficiencies in the preliminary enquiry report and wrote to SDPO, Vasmatnagar on 25-01-2019 directing him to conduct further enquiry and furnish report within 10 days.

4. According to the applicant, various other Police personnel who are facing graver charges i.e. actual allegations of being caught while accepting bribe etc. have been reinstated by revoking their suspension. The applicant has placed on record copies of relevant orders relied by him.

5. Present O.A. is opposed on the ground that suspension is an interlocutory matter, the preliminary enquiry report is yet awaited and no interference is necessary at the moment.

6. Learned Advocate for the applicant has placed reliance on various judgments which are as follows:

“(1) Judgment of Hon’ble Supreme Court in the case of **Ajay Kumar Choudhary V/s. Union of India Through its Secretary & Anr.**

(2) Judgment of the Tribunal at Mumbai in O.A.No.35/2018 in the case of **Dilip Jagannath Ambilwade V/s. State of Maharashtra & Ors.**

(3) Judgment of the Tribunal at Mumbai in O.A.No.269/2018 in the case of **Hiralal Rama Jadhav V/s. State of Maharashtra & Ors.**”

7. Gist of submissions of the applicant is as under:

(i) Charge subject matter, even if believed to be true, is not likely to culminate in major penalty of dismissal and hence suspension is wholly unjustified.

(ii) Though preliminary enquiry report is submitted and competent authority is entitled to ask for further enquiry, indefinite pendency of preliminary enquiry is unfair and arbitrary and suspension cannot be continued on account of any act of indolence on the part of officer asked to conduct preliminary enquiry.

8. In view of the judgment of **Ajay Kumar Choudhary** as interpreted by this Tribunal in the case of **Hiralal Jadhav** (supra) as regards power to suspend and power to even decline to review the suspension, cannot be construed as a power absolute in nature arbitrary and unqualified.

9. In the present case, it is seen that review of suspension is not taken on the ground of preliminary enquiry report is not yet received. In fact, officer who was asked to conduct preliminary

enquiry is subordinate to the Superintendent of Police, Hingoli and the said officer is under obligation to complete the enquiry without loss of time and furnish report but has neglected mostly due to connivance or consent of the competent authority i.e. the Superintendent of Police, Hingoli.

10. Failure to secure preliminary enquiry report and lead to delay in decision making itself is unfair. While the power of the competent authority to take review is to be respected, neglect therein cannot be turned a deaf ear or connived at.

11. Hence, this Tribunal is satisfied that the power to review the suspension of the applicant be exercised by the competent authority. Process of review must be completed within 15 days from the receipt of this order as is being passed in the O.A.

12. While reviewing the suspension, the competent authority must ensure that it is guided by the principles of equity and justice and the points raised and agitated by the applicant in the present O.A. and those be duly attended to and addressed.

13. Failure to address crucial questions agitated by the applicant shall be construed to aggravate act of neglect on the part of the respondents.

14. Hence this O.A. is partly allowed. Respondent Superintendent of Police, Hingoli is directed as follows:

- (a) He shall undertake review of suspension within 15 days from today through appropriate committee under his control.
- (b) Review Committee shall be bound to take into account points agitated in the present O.A. and additional affidavit.
- (c) All these documents which are forming part of the paper book of O.A. must be placed before the Review Committee.
- (d) Review Committee is expected to pass reasoned order recording therein reasons and circumstances on which its decision is founded.
- (e) This Tribunal does not expect Review Committee to write judgment like judicial forum. However, reasons whatsoever, be reflected in the order of review.

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

**(A.H.JOSHI)**  
**CHAIRMAN**

**Place : Aurangabad**  
**Date : 16.05.2019.**