

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 392 of 2017
WITH CIVIL APPLICATION NO.191/2018 (S.B.)

Narayan S/o Tukaram Pawar,
Aged about 48 years,
Occ. Police Patil,
R/o at village Churmura, Post Sukali,
Tq. Umarkhed, District Yavatmal.

Applicant.

Versus

- 1) The State of Maharashtra,
through the Secretary,
Home Department,
Mantralaya, Mumbai-32.
- 2) The Collector,
Yavatmal, Dist. Yavatmal.
- 3) The Sub Divisional Officer,
Umarkhed, Tq. Umarkhed,
District Yavatmal.
- 4) Taluka Magistrate and Tahsildar,
Umarkhed, District Yavatmal.
- 5) Police Inspector, Police Station,
Umarkhed, District Yavatmal.

Respondents.

S/Shri P. S.U. Nemade, D.R. Upadhyay, Advs. for the applicant.
Shri A.P. Potnis, learned P.O. for respondents.

Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).

ORAL ORDER**(Passed on this 18th day of September,2018)**

Heard Shri S.U. Nemade, learned counsel for the applicant and Shri A.P. Potnis, learned P.O. for the respondents.

2. In this O.A. the applicant has claimed that the order of his suspension dated 16/05/2017 issued by respondent no.4, the Taluka Magistrate and Tahsildar, Umarched (Annex-A-1) be quashed and set aside and the applicant be reinstated.

3. The learned counsel for the applicant submits that the Tahsildar has no right to issue order of suspension for indefinite period and even as per the provisions of rule 9 (d) of the Maharashtra Village Police Act, the suspension period shall not exceed one year in any case.

4. The impugned order of suspension is dated 16/05/2017 at P.B. page no.28 (Annex-A-1) from which it seems that the applicant has been kept under suspension only because some crime has been registered against him. The reason for suspension is as under :-

^T; kvFkhZ Jh- uljk; .k rpljke i okj] i ksyhl i kVhy pjjejk rk- mej [kM ; kps fo#/n I mHkZ dz 1 vUo; s Jherh d".kkckbzjke th i okj] jk- pjjejk ; kauh rh ekth I sud ; kph fo/kok i Ruh vl u rh vi R; kl g ekst k pjjejk ; Eks jkgr vkgS R; kpk i rhl 'kkl ukdMuu ekth I sud Eg.kuu ofgrhdfjrk feGlysyh ekst k pjjejk ; Eks 'ks I -ua 149 gh 'ks' tehu vkgj i jarq Jh- uljk; .k rpljke i okj i ksyhl i kVhy pjjejk

gs HlkoGhrty 'krhpk okn fuelzk d#u R; kpk nqzyrpk Qk; nk ?kouu o [kks/; k
 dkj.kko#u R; kauk o R; kq; k vi R; kl 'kri ofgrhdlkeh ekjgk.k] f'kohxkG o ftos
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 vl Y; kckcrph rdtj ; k dk; kzy; kl fnY; ko#u Jh- ukjk; .k rplkjk i okj i ksyhl
 i kVhy pjiejik ; kauk ; k dk; kzy; kus l mHkz dz2 ud kj rdtjhp; k vuqlakus ys[kh
 Li "Vhdj.k ekxfo.; kr vkys R; ko#u Jh- ukjk; .k rplkjk i okj i ksyhl i kVhy
 pjiejik ; kauh ys[kh Li "Vhdj.k l knj dsys

T; kvFkzrdtkjDR; kZuh l knj dsysysrdtkjhoso Jh- ukjk; .k rplkjk i okj
 i ksyhl i kVhy pjiejik ; kauh l knj dsysysys[kh Li "Vhdj.kkps voykdu dsysvl rk
 R; kauh l knj dsysysLi "Vhdj.k l a qrdhd okVr ukgh- rl p rdtjdR; kZuh nk[ky
 dsysyh rdtj l R; vkgs ; kckcr i ksyhl LVs ku mej [kM ; Fksxhgk l qnk ukmfo.; kr
 vkysyk vkgs gh ckr vR; r xllkhj Lo#i kph vl uu i ksyhl i kVhy i nkp; k drD; kr
 furkr l plsh o drD; i jk; .krk u jk[k.kkjh vkgs ; ko#u vl snl uu ; rsdh] Jh-
 ukjk; .k rplkjk i okj i ksyhl i kVhy pjiejik gs i ksyhl i kVhy inkl U; k; nou'kdr
 ukgh-

R; kvFkz Jh- Hlxoku i k- dkGj rkydk nMkf/kdkjh rFk rgfl ynkj
 mej [kM egkjk"V^a i ksyhl vf/kfu; e 1967 psdye 9 e/khy rjrmhlo; seyk i nku
 dj.; kr vkys; k 'kDrhpk oki j d#u Jh- ukjk; .k rplkjk i okj] i ksyhl i kVhy
 pjiejik rk- mej [kM ; kauk U; k; ky; hu fu.kz kP; k vf/ku jkguu ; k vkns kUo; sfuyicr
 djhr vkgs l nj vkns kph vaeyctko.kh gh fnukad 16@05@2017 i kl u ek>; k
 Lok{kjhfu'kh dj.; kr ; s vkgs**

5. Admittedly no departmental inquiry has been initiated against the applicant after he was kept under suspension on 16/05/2017. The criminal cases though pending the applicant has admittedly not been convicted in any of the cases against him and therefore under such circumstances the applicant seems to be under suspension merely because FIR has been registered against him.

6. The learned counsel for the applicant has placed reliance on the Judgment delivered by this Tribunal Bench at Mumbai in O.A. No.35 of 2018 in case of **Shri Dilip Jagannath Ambilwade Vs. State of Maharashtra & Ors.**, on 11/09/2018. In para nos.23,24 and 25 this Tribunal has observed as under :-

*“23. This Tribunal took a view in **Shri Naresh Alwandar Polani Vs. State of Maharashtra**, O.A 611 of 2017, by order dated 23.10.2017, relying on the judgment of Hon’ble Supreme Court in the case of **Ajay Kumar Choudhary Vs. Union of India & Ors, (2015) 7 SCC 291** and also in view of observations contained in **Dr. Narender Omprakash Bansal Vs. The State of Maharashtra & Ors**, W.P.11987/2015 as follows:-*

“9. It is now well settled by virtue of judgment in Ajay Kumar Choudhary (supra) that notwithstanding the language as may have been employed in the conditions of service, now it is not open to the Government to continue the suspension beyond three months as a mandatory rule of precedent.”

(Quoted from page 10 of Paper Book)

24. Learned advocate for the applicant has in addition placed reliance on the judgment of Hon’ble Supreme Court in State of Tamil Nadu Vs. Promod Kumar IPS & Anr, Civil Appeal No. 8427-8428 of 2018, wherein it is held as follows:-

“23.This Court in Ajay Kumar Choudhary Vs.Union of India, (2015) 7 SCC 291 has frowned upon the practice of protracted suspension and held that suspension

must necessarily be for a short duration.....”

25. Thus, now the ratio laid down in Ajay Kumar Choudhary’s case is reiterated in case of State of Tamil Nadu Vs. Pramod Kumar supra and the view taken by this Tribunal in Shri N.A. Polani’s case (O.A.611/2017) is required to be followed without making an exception, being based on a mandatory precedent.”

7. In view of the discussion in forgoing paras, it will be clear that the continuation of suspension beyond 90 days is disregarded and the Government has no right keep the applicant under suspension beyond 90 days. Even for argument sake, it is accepted that the respondent no.4 had exercised his jurisdiction under Police Patil Act, such period of suspension shall not be beyond one year. The said period has already been lapsed. Considering all these aspects, the impugned order of suspension dated 16/05/2017 is quashed and set aside. The respondents are directed to reinstate the applicant forthwith. The O.A. stands disposed of. Accordingly the C.A. also stands disposed of.

(J.D. Kulkarni)
Vice-Chairman (J).

Dated :- 18/09/2018.