

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**NAGPUR BENCH NAGPUR**

**ORIGINAL APPLICATION NO. 1063 / 2021 (S.B.)**

Prashant S/o Vijayrao Sthul,  
Aged about 39 years, Occ. Service (At present under suspension),  
R/o Kadam Layout, Shrirampur,  
Pusad, Dist. Yavatmal.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Through it's Additional Chief Secretary,  
Home Department,  
Mantralaya, Mumbai- 400 032,
- 2) The Superintendent of Police Yavatmal,  
Having its office, LIC Chowk,  
Yavatmal, Tq. and Dist. Yavatmal - 445001.

**Respondents**

---

**Shri S.P.Palshikar, the Id. Advocate for the applicant.**

**Shri S.A.Deo, the Id. C.P.O. for the respondents.**

---

**Coram :- Hon'ble Shri M.A.Lovekar, Member (J).**

---

**JUDGMENT**

**Judgment is reserved on 03<sup>rd</sup> January, 2022.**

**Judgment is pronounced on 06<sup>th</sup> January, 2022.**

Heard Shri S.P.Palshikar, Id. counsel for the applicant and Shri S.A.Deo, Id. C.P.O. for the Respondents.

2. In this application the applicant is seeking relief of revocation of order of his suspension (A-1) passed by respondent no. 2 on 30.09.2020.

3. By the impugned order the applicant was placed under suspension. It was alleged that he had demanded bribe but didn't accept because he suspected a trap. It was further alleged that he tried to extort money from the complainant who had approached A.C.B.. On these allegations crime no. 350/2020 and 347/2020 came to be registered against the applicant under Section 7 of the prevention of corruption Act and under Sections 384/34 of I.P.C., respectively.

4. On 03.01.2021 the applicant submitted application (A-2) before respondent no. 2 to revoke his suspension as period of 90 days had elapsed since then.

5. Respondent no. 2, by order dated 07.01.2021 (A-3) appointed enquiry officer. To this order chargesheet and annexures which were to be served on the applicant/ delinquent were attached.

6. In support of his prayer for revocation of suspension the applicant has raised following grounds:-

(i) More than 14 months have elapsed since the order of placing the applicant under suspension was passed.

(ii) Respondent no. 2 did not consider application (A-2) for revocation of suspension of the applicant.

(iii) Enquiry initiated by order dated 07.01.2021, and which was directed to be completed within three months, has not made any significance progress.

(iv) Further continuance of suspension of the applicant would be contrary to Law laid down by the Hon'ble Supreme Court.

7. The applicant has relied on G.R. dated 09.07.2019 issued by G.A.D. (A-4). In this G.R. following observations of the Hon'ble Supreme Court made in the case of Ajay Kumar Chaudhary Vs. Union of India, A.I.R. 2015, Supreme Court 2391 have been quoted :-

*"14 We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Chargesheet 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 concerned person 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 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."*

On the basis of these observations following guidelines have been issued :-

'kkI u fu.kZ &  
; k vuqfkkus 'kkI dh; de;pk&; kP; k fuy; cukpk vk<kok ?ks; kI mHkkZ i qhy i ek.ksI puk  
ns; kr ; s vkgs-

- (i) fuyfcr 'kkl fd; I odk; k T; k idj.kh 3 efgl; k; k dkyko/khr foHkxh; pksd'kh I q d: u nskjki i = ctko.; kr vkysvkg v'kk idj.kh fuyeu d; ki kl u 3 efgl; kr fuyekpk vk<kok ?kmu fuyeu i s pkywBoko; kpsvl Y; kl R; kckrpk fu.k; I i "V vknskl g %dj.k feek d g½ u{ke i kf/kdk& k; k Lrjkj ?ks; kr ; kok-
- (ii) fuyfcr 'kkl dh; I odk; k T; k idj.kh 3 efgl; kpk dkyko/khr foHkxh; pksd'kh I q d: u nskjki i = ctko.; kr vkysukgh] v'kk idj.kh ek- I okp U; k; ky; kps vknsk i kgrk] fuyeu I ektr dj.; kf'kok; vU; i; k; jkgr ukgh- R; keGsfuyfcr 'kkl dh; I odkckr foHkxh; pksd'khph dk; bkgh I q d: u nskjki i = ctko.; kph dk; bk; h fuyekiki kl u 90 fnol k; k vkr dkVdkji .ks dsh tkby ; kph n{krk@ [kcnkjh?ks; kr ; koh-
- (iii) Okstnkh idj.kkr fo'kskr% ykpyi r idj.kh fuyfcr 'kkl dh; I odkoj foHkxh; pksd'kh I q d: u nskjki i = ctko.kckr vko'; d rks vfHky[k ykpyi r i frckd foHkxkusl a/kr izkkl dh; foHkxkl mi yC/k d: u nskvko'; d j kfgy-

8. The applicant has also relied on Judgments dated 06.05.2021 and 01.09.2021 passed by this Tribunal in O.A. Nos. 312/2021 (A-5) and 560/2021 (A-6), respectively. In these cases this Tribunal revoked suspension of the applicant by relying on aforesaid Judgment of the Hon'ble Supreme Court, G.R. of G.A.D. and Judgment passed by the Hon'ble Bombay High Court on 17.07.2019 in W.P. No. 7506/2018 (A-4) wherein following observations have been made:-

*"The Government has recently issued a resolution dated 09.07.2019 giving detailed guidelines and directions for dealing with cases of those employees who are placed under suspension and against whom the charge-sheet has been issued. In the present case, charge-sheet has already been issued and 3 months period has been over long back and therefore, the facts of this case are squarely covered by the Government Resolution dated 09.07.2019, calling for necessary intervention by this Court."*

9. The applicant has placed on record chart dated 27.10.2021. It refers to review of case of the delinquents who have been placed under suspension. So far as instant case is concerned, the chart states that report of enquiry is awaited and A.C.B. is yet to file chargesheet in the special court. The chart further refers to the order passed by the reviewing authority in respect of continuance of suspension of the applicant. As per the chart the reviewing authority continued suspension of the applicant on the ground that chargesheet was not yet filed in the special court by A.C.B.

10. I have quoted all 3 clauses of G.R. dated 09.07.2019. Clause (i) mandates that in a case where departmental enquiry is commenced by issuing chargesheet on the delinquent within three months of his suspension, on completion of said period of three months the competent authority has to take the decision regarding continuance of order of suspension and such order should be clear and supported by reasons. The order passed in the instant case by the reviewing authority cannot be said to be in consonance with clause (i) of G.R. dated 09.07.2019.

11. I have also quoted observations made by the Bombay High Court in W.P. No. 7506/2018. These observations fully support case of the applicant that further continuance of order of suspension passed against him would not be sustainable in Law.

12. For all these reasons the application will succeeded. Hence, the order:-

### **ORDER**

The O.A. is allowed in the following terms:-

- A. The impugned order of suspension dated 30.09.2020 (A-1) is revoked.

- B. The respondents shall issue consequential order within 30 days from the date of receipt of this order.
- C. No order as to costs.

**Member (J)**

**Dated :- 06/01/2022.**

aps

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno	:	Akhilesh Parasnath Srivastava.
Court Name	:	Court of Hon'ble Vice Chairman.
Judgment signed on and pronounced on	:	06/01/2022.
Uploaded on	:	07/01/2022.