

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 491/ 2023 (S.B.)

Namo Sadashio Shende,
Aged about 40 years,
R/o Nandepera, Th. Wani,
District - Yavatmal.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Revenue,
Mantralaya, Mumbai- 32.
- 2) Sub-Divisional Officer,
Kelapur,
District - Yavatmal.

Respondents

WITH
ORIGINAL APPLICATION No. 492/ 2023 (S.B.)

Babusingh Kisan Rathod,
Aged about 53 years,
R/o Chikhalgaon, Th. Wani,
District - Yavatmal.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Revenue,
Mantralaya, Mumbai- 32.
- 2) Collector, Yavatmal,
District - Yavatmal.

Respondents

WITH
ORIGINAL APPLICATION No. 493/ 2023 (S.B.)

Ramesh Fakira Rane,
Aged about 49 years,
R/o Ganeshpur, Th. Wani,
District - Yavatmal.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Revenue,
Mantralaya, Mumbai- 32.
- 2) Sub-Divisional Officer,
Kelapur,
District - Yavatmal.

Respondents

Shri N.R.Saboo, Id. Advocate for the applicants.

Shri A.M.Khadatkar, Id. P.O. for the Respondents.

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

JUDGEMENT

Judgment is reserved on 04th Sep., 2023.

Judgment is pronounced on 07th Sep., 2023.

Heard Shri N.R.Saboo, Id. counsel for the applicants and Shri A.M.Khadatkar, Id. P.O. for the Respondents.

2. The applicants in these connected O.As. which are being decided by this common judgment, were arrested on 17.02.2023 in crime

no. 84/2023 registered under Sections 7 & 12 of the Prevention of Corruption Act at Police Station Maregaon, they were released on bail on 21.02.2023 and placed under suspension by the impugned orders dated 24.02.2023 by respondent no. 2, under Rule 4 of The Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 in contemplation of initiation of departmental enquiry. It is the contention of the applicants that the impugned orders are required to be revoked in view of G.R. dated 09.07.2019 issued by G.A.D., Government of Maharashtra.

3. Stand of respondent no. 2 is that since the applicants did not avail the remedy of making a representation for revocation of suspension before the Review Committee, these O.As. cannot be entertained.

4. G.R. dated 09.07.2019 reads as under:-

शासन निर्णय :-

निलंबित शासकीय अधिकारी / कर्मचाऱ्यांच्या निलंबनाची कारणे व त्यांचे गांभीर्य यानुसार त्यांच्या प्रकरणांचा आढावा घेण्यासंदर्भात शासनाने वेळोवेळी वर संदर्भामध्ये दर्शविल्यानुसार शासन निर्णय निर्गमित केले आहेत. श्री अजयकुमार चौधरी विरुद्ध युनियन ऑफ इंडिया (सिव्हिल अपिल क्र. १९१२/२०१५) मध्ये मा. सर्वोच्च न्यायालयाने दि. १६/०२/२०१५ रोजी दिलेल्या निर्णयाच्या परिच्छेद १४ मधील आदेश खालीलप्रमाणे आहेत.

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 the 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.

२. मा. सर्वोच्च न्यायालयाने वरीलप्रमाणे दिलेल्या दि. १६/०२/२०१५ च्या निर्णयाचे अनुषंगाने केंद्र सरकारचा दि. २३ ऑगस्ट, २०१६ रोजीचा कार्यालयीन आदेश सोबत जोडला आहे. मा. सर्वोच्च न्यायालयाचा निर्णय व केंद्र सरकारचा कार्यालयीन आदेश पाहता निलंबित शासकीय कर्मचाऱ्यांना ९० दिवसांच्या मुदतीत दोषारोप पत्र बजावून त्यांच्या निलंबनाच्या आढाव्या संदर्भातील तरतुदी सुधारण्याची बाब शासनाच्या विचाराधीन होती.

शासन निर्णय :-

१. या अनुषंगाने शासकीय कर्मचाऱ्यांच्या निलंबनाचा आढावा घेण्यासंदर्भात पुढीलप्रमाणे सूचना देण्यात येत आहेत.

i) निलंबित शासकीय सेवकांच्या ज्या प्रकरणी ३ महिन्यांच्या कालावधीत विभागीय चौकशी सुरु करून दोषारोप पत्र बजावण्यात आले आहे, अशा प्रकरणी निलंबन केल्यापासून ३ महिन्यात निलंबनाचा आढावा घेऊन निलंबन पुढे चालू ठेवावयाचे असल्यास त्याबाबतचा निर्णय सुस्पष्ट आदेशासह (कारण मिमांसेसह) सक्षम प्राधिकाऱ्यांच्या स्तरावर घेण्यात यावा.

ii) निलंबित शासकीय सेवकांच्या ज्या प्रकरणी ३ महिन्यांच्या कालावधीत विभागीय चौकशी सुरु करून दोषारोप पत्र बजावण्यात आले नाही, अशा प्रकरणी मा. सर्वोच्च न्यायालयाचे आदेश पाहता, निलंबन समाप्त करण्याशिवाय अन्य पर्याय राहत नाही. त्यामुळे निलंबित शासकीय सेवकांबाबत विभागीय चौकशीची कार्यवाही सुरु करून दोषारोप पत्र बजावण्याची कार्यवाही निलंबनापासून ९० दिवसांच्या आत काटेकोरपणे केली जाईल याची दक्षता / खबरदारी घेण्यात यादी.

iii) फौजदारी प्रकरणात विशेषतः लाचलुचपत प्रकरणी निलंबित शासकीय सेवकांवर विभागीय चौकशी सुरु करून दोषारोप पत्र बजावणेबाबत

आवश्यक तो अभिलेख लाचलुचपत प्रतिबंधक विभागाने संबंधीत प्रशासकीय विभागास उपलब्ध करून देणे आवश्यक राहिल.

5. The impugned orders are dated 24.02.2023. Statement was made on behalf of the applicants that so far no chargesheet has been served on them. No contrary stand is taken by respondent no. 2. There is no substance in the above referred pleading of respondent no. 2 that the applicants ought to have, before approaching this Tribunal, availed the remedy of making a representation to the Review Committee.

6. Considering the factual and legal position mentioned above, direction will have to be issued for revoking suspension of the applicants. Hence, the order:-

ORDER

The O.As. are allowed in the following terms:-

- A. The respondents are directed to issue orders revoking suspension of the applicants within 15 days from today.
- B. No order as to costs.

(Shri M.A.Lovekar)
Member (J)

Dated :- 07/09/2023.
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 Member (J).

Judgment signed on : 07/09/2023.
and pronounced on

Uploaded on : 08/09/2023.