

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.1093 OF 2022

DISTRICT : RAIGAD

Shri Balaji Raosaheb Raut,)
Aged 32 years, Surveyor (under Suspension),)
Land Record Department, Karjat, Raigad)
R/at Mangesh Bhuikot Home, Mudhare (Khurd),)
Near Neminath Residence Society, Karjat,)
District Raigad 410201)..Applicant

Versus

1. The State of Maharashtra,)
Through Additional Chief Secretary,)
Revenue & Forest Department, Mantralaya,)
Mumbai 400032)
2. The Settlement Commissioner &)
Director of Land Records, MS, Pune)
New Administrative Building, 1st Floor,)
Opp. Vidhan Bhavan, Pune 411001)
3. Deputy Director, Land Records,)
Konkan Region, Mumbai, D.D.Building, 1st Floor)
Old Jakat Ghar, Fort, Mumbai 400001)
4. The Deputy Superintendent, Land Records,)
Near Telephone Exchange, Opp. Police Ground,)
Karjat, District Raigad)..Respondents

Smt. Punam Mahajan – Advocate for the Applicant

Smt. K.S. Gaikwad – Presenting Officer for the Respondents

CORAM : Smt. Medha Gadgil, Member (A)

RESERVED ON : 4th September, 2023

PRONOUNCED ON: 26th September, 2023

J U D G M E N T

1. Heard Smt. Punam Mahajan, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. This is an application filed under Section 19 of the Administrative Tribunals Act, 1985 with a request to quash and set aside the order dated 17.8.2022 passed by respondent no.2 suspending the applicant w.e.f 14.7.2022 and also seeking directions to the respondents to reinstate the applicant within reasonable time with all consequential service benefits.

3. The applicant was working as a Surveyor in the Land Records Department, Karjat, District Raigad. On the basis of a complaint filed against the applicant before the Anti Corruption Bureau (ACB) the applicant was caught red handed by the ACB on 13.7.2022 while accepting a bribe of Rs.25,000/- and after the Panchanama an FIR was lodged on 14.7.2022 at the Karjat Police Station under CR No.227/2022 under Section 7 of the Prevention of Corruption Act, 1988. The applicant was arrested on 14.7.2022 and granted bail on 22.7.2022. Since the applicant was in Police custody for more than 48 hours he was deemed to be suspended w.e.f. 14.7.2022 and the headquarter of the applicant was changed from Dy. Superintendent of Land Records, Karjat, District Raigad to Dy. Superintendent of Land Records, Malvan, District Sindhudurg.

4. Ld. Advocate for the applicant relies on the GR dated 9.7.2019 issued by the GAD wherein it is directed that where a Government servant is placed under suspension, the order of suspension should not extend beyond 3 months, if within this period the charge sheet is not served on the charges officer.

5. Ld. Advocate for the applicant relies on the ratio laid down by the Hon'ble Supreme Court in **Ajay Kumar Choudhary Vs. Union of India & Anr. (2015) 7 SCC 291** and **State of Tamil Nadu Vs. Pramod Kumar & Anr (Civil Appeal No.2427-2428 of 2018) decided on 21st August, 2018.**

6. The Ld. Advocate for the applicant also refers to and rely on the judgment and order dated 7.7.2021 passed by the Aurangabad Bench of this Tribunal in **OA No.69 of 2020 Suresh Ghanshyam Tandale Vs. The State of Maharashtra & Ors.** in which the applicant was deemed to have been reinstated after completion of prescribed review period of 90 days of actual suspension.

7. Ld. PO opposes the submissions made by the Ld. Advocate for the applicant and relies on the affidavit dated 31.1.2023 filed by Sharad Eknath Kale, Deputy Superintendent, Land Records, Khalapur. He submits that proposal for reinstatement was submitted to the Deputy Commissioner (Revenue) and Member Secretary, Divisional Suspension Review Committee, Konkan Division on 5.1.2023. He pointed out that applicant was caught red handed while accepting bribe in Government work in case of ACB trap. The department proposes to initiate DE into alleged irregularities. Ld. PO points out that this matter was placed before the review committee for suspension on 30.6.2023. In this case the DE has not yet been started although a period of 11 months is over.

Moreover, they have not yet filed charge sheet and sanction for prosecution is not received from the ACB. However, in view of the gravity of the matter it was decided to continue the applicant under suspension.

8. The legal position in respect of prolonged suspension is no more res integra in view of the judgment of the Hon'ble Supreme Court in *Ajay Kumar Choudhary* (supra). In Para 86 of the judgment the Hon'ble Supreme Court has listed 15 propositions to serve as guidelines, the most quoted among them is the proposition listed at serial number 14 which is reproduced as under-

“We, therefore, direct that the currency of Suspension Order should not extend beyond three month if within this period the Memorandum of Charges / Charge- sheet is not served a reasoned order must be passed for extension of the suspension.We recognize that previous constitution benches have been reluctant to quash proceedings on ground of delay, and to set time limit to their duration. However, the imposition of time limit has not been discussed in prior case laws, and would not be contrary to the interest of justice.....”

9. It cannot be denied that in this case the DE has not been initiated although he was suspended on 13.7.2022 and more over sanction for prosecution is not received from the ACB.

10. Ld. Advocate for the applicant relied on the judgment of Aurangabad Bench of this Tribunal in *Suresh G. Tandale* (supra). The facts in this case are different as in the abovementioned case no review was taken and the suspension order had been given retrospective effect which is not mentioned in the rules.

11. It is well settled position that Government servant should not be subjected to prolonged suspension where no fruitful purpose will be served by continuing the suspension. In this case the Govt. has issued various GRs from time to time for taking periodical review of suspension of Government servant who has been suspended on account of registration of crime under the provisions of Prevention of Corruption Act or IPC.

12. In this case it is shocking to note that no DE has been initiated. It appears that a review has been taken on 30.6.2023 which merely mentions that looking into seriousness of charges a decision was taken to continue with the suspension. In so far as review is concerned the authority has failed to consider that despite a lapse of one year no charge sheet has been filed in the Court of Law and the DE has not even been initiated.

13. In this case there seems to be total inaction on the part of the authorities and the applicant has been subjected to prolonged suspension. Therefore, I am of the opinion that no fruitful purpose would be served by continuing the applicant under further suspension and suspension of the applicant deserves to be revoked and he has to be reinstated in service. Hence, I pass the following order:

ORDER

(A) The Original Application is partly allowed.

(B) The suspension of the applicant stands revoked with immediate effect.

(C) The respondents shall reinstate the applicant in a non-executive post within six weeks from today.

(D) The applicant shall not tamper witnesses or evidence in criminal case or departmental proceedings.

(E) The disciplinary authority shall ensure completion of DE within six months from today.

(F) No order as to costs.

Sd/-
(Medha Gadgil)
Member (A)
26.9.2023

Dictation taken by: S.G. Jawalkar.