

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 03 OF 2017**

**DISTRICT: JALNA**

**Shri Ramesh Khemaji Gaikwad,**  
Age: 52 years, Occu. : Service as  
Agriculture Supervisor,  
R/o Nariman Nagar, Railway Station Road,  
Jalna, Dist. Jalna.

.. **APPLICANT**

**V E R S U S**

- 1) The State of Maharashtra,  
Through Principal Secretary,  
Rural Development and Water Conservation  
Department, Mantralaya, Mumbai-32.
- 2) The Principal Secretary,  
Animal Husbandry and Dairy Development  
Department, Mantralaya, Mumbai-32.
- 3) The Commissioner of Agriculture,  
Agricultural College Campus,  
Natawadi, Shivaji Nagar, Pune.
- 4) The Divisional Joint Director of Agriculture,  
Kranti Chowk, Aurangabad.
- 5) The District Superintendent Agricultural Officer,  
Jalna, Dist. Jalna.

.. **RESPONDENTS**

-----  
APPEARANCE : Shri V.B. Wagh, learned Advocate for the  
Applicant.

: Shri I.S. Thorat, learned Presenting  
Officer for the Respondents.

-----  
**CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)**  
-----

**ORDER****(Delivered on this 18<sup>th</sup> day of April, 2017.)**

1. By filing the present Original Application, the applicant has challenged the suspension order dated 20.12.2016 issued by respondent no. 4 thereby suspending him from the post of Agricultural Supervisor in pursuance of the letter dated 14.12.2016 issued by the respondent no. 3 and also sought declaration that the order dated 31.03.2016 revoking his earlier suspension is valid.

2. The applicant was appointed as Agricultural Assistant in the year 1983 and thereafter, he was promoted to the post of Agricultural Supervisor in the year 2006 and was posted in the office of Taluka Agricultural Office, Jalna, Circle Agricultural Office, Ner-1.

3. In the year 2010-11 while implementing the scheme of Integrated Water Shed Development Scheme in Jalna district, more particularly at Mauje Wadgaon (Patra Tanda), the committee namely Panlot Vikas Samiti, Wadgaon consisting 11 Members was formed. One Shri Sopan Babasaheb Tirukhe and one Shri Bhanudas Khandu Rathod who are natives of the village Wadgaon (Patra Tanda) were President and

Secretary of the committee respectively. The applicant, being representative of the department, was appointed as a Joint Secretary of Committee. A bank account has been opened in the Canara Bank, Wadgaon Branch with A/c No. 2589101006346 on 11.07.2012 in the name of committee. The President, Secretary and Joint Secretary were empowered to draw and disburse the cheques jointly.

4. The committee has to demand the funds from the Sub-Divisional Agricultural Office, Jalna by sending proposal to the respondent no. 5. The respondent no. 5 used to transfer funds through R.T.G.S. as per the demand in the bank account of the committee. The President, Secretary and Joint Secretary used to issue cheques to the concerned persons after completion of work and after due verification. Signature of the President, Secretary and Joint Secretary were required on the cheques issued to the concerned persons.

5. The President and Secretary of the committee had withdrawn the amounts of Rs. 300000/- on dated 20.01.2014 and 1300000/- on 07.03.2014 by issuing cheques. They had not obtained signature of the applicant on the said cheques. They utilized the said amount. When the applicant learnt about the

said fact, he informed respondent nos. 2 and 4 on phone about it but no action was taken by superior authority in that regard.

6. In the Winter Session, in the legislative assembly question was raised regarding the irregularities which had done by the President and Secretary while implementation of the Scheme by withdrawing an amount of Rs. 16,000,00/-. The respondent no. 1 by letter dated 26.11.2015 had issued a direction to the Additional Chief Executive Officer, Vasundhara State Water Conservation Development Agency, Pune to register the offence against the committee members regarding irregularities done by them. It was stated that the Taluka Health Officer, Jalna was also responsible and why the action should not be taken against him. Thereafter, respondent no. 4 placed the applicant under suspension by issuing order dated 26.11.2015. The applicant has challenged the said suspension order before the competent authority under Rule 4 (5)(c) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 contending that he was not involved in defalcation of money and requested to revoke the suspension order. After considering his representation, the respondent no. 4 issued order dated 31.03.2016 and revoke the suspension of the applicant. Thereafter, he was posted as Taluka

Agricultural Officer, Jalna (Circle Agricultural Officer, Ner-1) and since then he started discharge his duties.

7. On 14.12.2016 the respondent no. 3 had issued letter referring to the Government letter dated 05.12.2016 that the crime has been registered against Shri Chhagan Ganpat Shelke, Shri Arun Dadaro Pandit and the applicant and they are involved in the offence. They are also involved in the defalcation of amount and it had directed to take action against the applicant by placing him under suspension. In pursuance of the said letter, the respondent no. 4 issued letter dated 20.12.2016 and placed the applicant under suspension. It is contention of the applicant that he has not played role in the defalcation of amount withdrawn by the President and Secretary of the committee. The President and Secretary deposited the said amount and therefore, the Hon'ble High Court granted anticipatory bail in Criminal Application Nos. 6987 of 2015 and 6809/2016. It is contention of the applicant that he was also placed under suspension by the order dated 02.12.2015 and his suspension has been revoked vide order dated 31.03.2016. Therefore, he cannot be placed under suspension again within a period of six months. His suspension order is not just and proper under the provisions of Rule 4(5)(c) of the Maharashtra Civil Services (Discipline and Appeal) Rules,

1979. The order under challenge is mala-fide, arbitrary and issued with ulterior purpose and therefore, it requires to be quashed and set aside. On these grounds, he has challenged the impugned order dated 20.12.2016 and also sought declaration that the earlier order dated 31.03.2016 revoking his suspension is valid and legal.

8. The respondent nos. 2 to 5 have filed affidavit in reply and refuted the contention of the applicant. They admitted that as per guidelines of Integrated Watershed Management Programme of Maharashtra Government 2009, the said committee consisting of 11 members had been formed in the village Wadgaon. The President and Secretary of the committee will be determined by Gram Sabha. The Government servant i.e. field level Government servant will be Joint Secretary of the said Committee. The account of the committee is to be operated with the joint signatures of the President, Secretary and Joint Secretary. It is duty of the Government servant and if Secretary to supervise the work of Watershed Committee and verify the work by taking measurements of the work and to issue bills, to make planning, to maintain record of labour and also to maintain accounts. An amount of Rs. 1600000/- has been withdrawn by the President and Secretary of the committee illegally, but the said fact had not

been reported by the applicant who is Joint Secretary of the Committee to his superior authorities in writing and in time. There was inaction on the part of the applicant in discharging his duties as Joint Secretary of the Committee and therefore, respondent no. 4 suspended the applicant by his order dated 20.12.2016 in view of the direction given in the letter dated 14.12.2016. The applicant has not challenged the said suspension order dated 20.12.2016. The applicant has failed to discharge his duties. Therefore, he was suspended. Shri Chagan Ganpat Shelke, former-Taluka Agriculture Officer, Jalna now serving as a Taluka Agriculture Officer, Chikhli Dist. Buldhana and Shri Arun Dadarao Pandit, Circle Agriculture Officer were also suspended by order dated 5.12.2016. Departmental Enquiry has been initiated against them as well as applicant by order dated 9.1.2017. There was no illegality in the suspension order which is under challenge and therefore, they prayed to reject the present Original Application.

9. Heard Shri V.B. Wagh, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for respondents. I have also perused the affidavit, affidavit in reply and various documents placed on record by the respective parties.

10. Learned Advocate for the applicant has submitted that the applicant is working as a Joint Secretary of the committee known as a Watershed Committee under the scheme of Integrated Watershed Development Scheme in Jalna district. He has submitted that one Shri Sopan Babasaheb Tirukhe resident of Wadgaon (Patra Tanda) was President and one Shri Bhanudas Khandu Rathod was Secretary of the committee. He has submitted that as per the procedure adopted by the committee, cheques used to issue to the concerned persons from the account of the committee under the signatures of the President, Secretary and Joint Secretary. He has argued that the President and Secretary had withdrawn an amount of Rs. 300000/- on 20.01.2014 and 1300000/- on 07.03.2014 by issuing cheques and they had not obtained signature of the applicant on the said cheques. The applicant was not signatory on the said cheques and therefore, he was not responsible for withdrawal of the said amount. He has submitted that as soon as he came to know about the withdrawal of the amount illegally by the President and Secretary, the applicant informed the said fact to his superior authorities but no action was taken by them against the President and Secretary of the committee. The President and Secretary of the Committee had defalcated the Government money. He has submitted that they had deposited the amount of Rs. 1600000/-

and on that ground, the Hon'ble High Court granted anticipatory bail to them. He has argued that a question had been raised in legislative assembly regarding the said amount. The respondents issued letter dated 26.11.2015 and directed the Additional Chief Executive Officer, Vasundhara State Water Conservation Development Agency, Pune to pass the suspension order against the applicant and accordingly, the respondent no. 4 suspended the applicant vide order dated 2.12.2015. He has argued that the applicant had challenged the said suspension order by filing representation before the higher authority and respondent no. 4 after considering his representation and the facts and circumstances of the case, revoked the suspension by the order dated 31.03.2015 which is at Annexure A-4 (paper book page nos. 27 & 28). He has submitted that after revocation of suspension, the applicant joined his duties as Taluka Agricultural Office, Jalna, Circle Agricultural Office, Ner-1 and started discharging his duties. But the respondent no. 3 had issued letter dated 14.12.2016 by giving reference to the letter dated 5.12.2016 stated that crime has been registered against the applicant and others on 2.12.2015 therefore, they directed the respondent no. 4 to take action against the applicant. Therefore, the respondent no. 4 issued suspension order dated 20.12.2016 and suspended the applicant.

11. The learned Advocate for the applicant has submitted that once earlier suspension has been revoked, the respondents have no authority to place the applicant again under suspension, as the applicant has played no role in withdrawal of amount of Rs. 1600000/- from the funds allotted under the scheme. He has submitted that within six months from the date of revocation of the earlier suspension, the impugned order of suspension came to be passed and the suspension order has been issued without considering the facts and circumstances of the case. The concerned authority has not considered the fact that the applicant played no role in withdrawing the amount and he was not signatory on the cheques. He has submitted that the impugned order of suspension is illegal and in contravention of the Rules and therefore, he prayed to quash the impugned order of suspension and also sought declaration that the order dated 31.03.2016 revoking the earlier suspension of the applicant is legal & valid.

12. The learned Advocate for the applicant has placed reliance on judgment delivered by this Tribunal in O.A. Nos. 411 & 412 of 2016 dated 19.10.2016 wherein the cancellation of revocation of order of suspension has been challenged and this Tribunal has quashed the said order of cancellation and directed

the respondents to refer the matter of the applicant before the review committee and to consider it on merit. The facts in that case are totally different than the present set of facts and therefore, the principles laid down in the above cited judgment are not helpful to the applicant in the present case.

13. The learned Advocate for the applicant has further submitted that the respondents ought to have placed the matter before the review committee in view of the directions given by the Government in G.R. dated 14.10.2011 for review but the same has not been placed before review committee. He has further submitted that the order of revocation of suspension of the applicant should have been placed before the review committee and the committee would have examined the same on its own merit. He has submitted that after laps of 90 days revocation became illegal and therefore, present suspension order under challenged cannot be continued. In support of this submission, he has placed reliance on the judgment delivered by the Hon'ble High Court of Bombay, Bench at Aurangabad in the case of **Shailendra Vs. The State of Maharashtra reported in 2013 (1) Mh.L.J. 594** and judgment delivered by the Hon'ble Supreme Court of India in the case of **Union of India & Ors. Vs. Dipak Mali reported in 2010 AIR (SC) 336.** He has also placed

reliance on the judgment delivered in case of **State of Orissa Vs. Bimala Kumar Mohanty reported in AIR 1994 SC 2296,**

wherein it is observed as follows:-

*“It is thus settled law that normally when an appointed authority or the disciplinary authority seeks to suspend an employee, pending inquiry or contemplated inquiry or pending investigation into grave charges of misconduct or defalcation of funds or serious acts of omission and commission the order of suspension would be passed after taking into consideration the gravity of the misconduct sought to be inquired into or investigated and the nature of the evidence placed before the appointing authority and on application of the mind by disciplinary authority. Appointing authority or disciplinary authority should consider the above aspects and decide whether it is expedient to keep an employee under suspension pending aforesaid action. It would not be as an administrative routine or an automatic order to suspend an employee. It should be on consideration of the gravity of the alleged misconduct or the nature of the allegations imputed to the delinquent employee. The Court or the Tribunal must consider each case on its own facts and no general law could be laid down in that behalf. Suspension is not a punishment but is only one of forbidding or disabling an employee to discharge the duties of office or post held by him. In other words it is to refrain him to avail further opportunity to perpetrate the alleged misconduct or to remove the impression among the members of service that dereliction of duty would pay*

*fruits and the offending employee could get away even pending enquiry without any impediment or to prevent an opportunity to the delinquent officer to scuttle the enquiry or investigation or to win over the witness or the delinquent having had the opportunity in office to impede the progress of the investigation or enquiry etc. But as stated earlier, each case must be considered depending on the nature of the allegations, gravity of the situation and the indelible impact it creates on the service for the continuance of the delinquent employee in service pending enquiry or contemplated enquiry or investigation would be another thing if the action is by mala-fides, arbitrary or for ulterior purpose. The suspension must be a step in aid to the ultimate result. The authority also in mind a public interest of the impact of the delinquent's continuance in office while facing departmental enquiry or trial of a criminal charge.”*

14. Learned Presenting Officer has submitted that the applicant and others were involved in the crime. He has submitted that the applicant was a Joint Secretary of the committee and it was his duty to maintain accounts and to supervise the work of committee. He has to prepare bills, make planning and to maintain records. He ought to have been informed to the superior authority immediately, after he came to know about the fact that huge amount had been withdrawn by the President and Secretary of the committee without obtaining

his signature on the cheques but he had failed to discharge his duties and had not informed the said fact to his superior authority, though the huge amount of Government has been misappropriated. He has submitted that considering the allegations, the applicant was suspended previously but thereafter his suspension had been revoked. The action of respondent no. 4 placing the applicant under suspension is in view of the directions given by the Government, as the crime had been registered against the applicant and others in respect of misappropriation of Government money. He has submitted that the suspension order under challenge is issued as per the Rules. He has submitted that the charge sheet was served on the applicant and other officers and Departmental Enquiry is pending. He has submitted that there is no legal bar in placing the applicant again under suspension even after revocation of earlier order of revocation in view of the changed circumstances. Therefore, he supported impugned order of suspension of the applicant and prayed to reject the present O.A.

15. On going through the documents on record, it is crystal clear that the applicant was suspended on 2.12.2015 in view of the question raised in the legislative assembly but subsequently his suspension has been revoked by the order dated

31.03.2016. The Government then made enquiry in the matter. Meanwhile a crime has been registered against the applicant and others for their involvement in misappropriation of the Government money and therefore, the Government directed respondent no. 4 to take necessary action against the applicant. Accordingly, the respondent no. 4 issued impugned order of suspension dated 20.12.2016. There is no legal impediment or bar in placing the applicant under suspension again, since a crime had been registered against the applicant and others and Departmental Enquiry has been initiated against the applicant and others. Not only this, but his senior officers had also been suspended by the respondents. In these circumstances, in my opinion there is no illegality in the impugned order.

16. The applicant is placed under suspension by order dated 20.12.2016 (Annexure A-6) which is at paper book page no. 30 and the O.A. has been filed on 2.1.2017 i.e. within a month. At that time the Departmental Enquiry was initiated against the applicant and the charge sheet was also served to him. Therefore, there is no just reason to review the suspension order and revoke it. Therefore, the principles laid down in the above cited decisions relied on by the learned Advocate for the applicant are not attracted in the present case.

17. Considering the above said facts and circumstances in my opinion, there is no merit in the present O.A. The suspension order under challenge is legal, just and proper and there is no illegality on the part of the respondents while passing the impugned suspension order. There is no merit in the present O.A. Consequently, it deserves to be dismissed. Hence, the Original Application stands dismissed with no order as to costs.

**(B.P. PATIL)**  
**MEMBER (J)**

**KPB/S.B. O.A. No. 03 of 2017 BPP 2017 Suspension**