

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 835/2023(S.B.)

Promod Shivaji Bagde,
Aged about 56 years,
R/o Chandore Nagar,
Moha Fata, Dhamangaon Road Yavatmal,
Dist.-Yavatmal.

Applicant.

Versus

1. State of Maharashtra,
through its Secretary,
Department of Agriculture,
Animal Husbandry Dairy Development & Fisheries,
Mantralaya, Mumbai-32.
2. Commissioner (Agri),
Agriculture Commissionerate,
Maharashtra State, Pune-1.
3. The Chief Executive Officer, (Agri.)
District Municipal Council,
Yavatmal.

Respondents

Shri R.G.Waghmare, Ld. Counsel for the applicant.
Shri S.A.Sainis, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.
Dated: - 15th September, 2023.

JUDGMENT

Heard Shri R.G.Waghmare, learned counsel for the applicant and Shri S.A.Sainis, learned P.O. for the Respondents.

2. The matter is heard and decided finally with the consent of learned counsel for parties.

3. The applicant has filed this O.A. for revocation of the suspension order dated 04.11.2022, by which the applicant is suspended. The applicant was arrested for the Offences Punishable under Section 7 of the Prevention of Corruption Act. After arrest by the Police, the applicant is suspended by the respondents. The respondents have not served any charge sheet to the applicant. Therefore, the applicant has filed the present O.A. to quash and set aside the suspension order.

4. On 24.08.2023, the learned P.O. was directed to get instructions as to whether any charge sheet is served to the applicant or not.

5. The learned P.O. submits that he has no any instructions about the service of charge sheet. The applicant has stated in the O.A. itself in para 10 of the O.A. that charge sheet is not served till date.

6. Heard learned counsel for the applicant. He has made a statement that till date charge sheet is not served. Respondents

cannot continue the suspension for a longer period without issuing any charge sheet. In support of his submission pointed out the G.R. dated 09.07.2019. The Government of Maharashtra after the decision of Hon'ble Supreme Court in the case of ***Ajay Kumar Chaudhary Vs. Union of India through its Secretary and another*** issued the G.R. dated 09.07.2019. The material portion of the G.R. is reproduced below.

शासन निर्णय :

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

1) 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 यावी.

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.

या आदेशातील तरतुदीमुळे या विषयावरील संदर्भ १ व २ येथील आदेशातील तरतुदी या आदेशाच्या मर्यादेत सुधारण्यात आल्या आहेत असे समजण्यात यावे.

३. सदर शासन निर्णय महाराष्ट्र शासनाच्या www.maharashtra.gov.in या वेबसाईटवर उपलब्ध करण्यात आला असून त्याचा संगणक संकेतांक २०१९०७०९१५२०४०५२०७ असा आहे. हा आदेश डिजीटल स्वाक्षरीने साक्षांकित करून काढण्यात येत आहे.

7. Heard learned P.O.. He has opposed to allow the O.A.. The Hon'ble Supreme Court in the case of ***Ajay Kumar Chaudhary Vs. Union of India through its Secretary and another*** has held that if the charge sheet is not served to the delinquent employees within a period of 90 days, then suspension is to be revoked. In view of the Judgment of the Hon'ble Supreme Court in the case of ***Ajay Kumar Chaudhary Vs. Union of India through its Secretary and another*** and the G.R. dated 09.07.2019, the following order is passed.

ORDER

1) The O.A. is allowed.

- 2) The impugned suspension order dated 4.11.2022 is revoked. The respondents are directed to reinstate the applicant within a period of one month from the date of receipt of this order.
- 3) No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated – 15/09/2023
rsm.

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

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Vice Chairman .
Judgment signed on : 15/09/2023.
Uploaded on : 20/09/2023.