

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 44 OF 2023  
(Subject – Suspension)**

**DISTRICT : PARBHANI**

**Prashant s/o Bhagwansingh Kachhawa,** )  
Age : 49 years, Occu. : Service as Sub-Divisional  
Conservation Officer, Parbhani. )  
R/o : C/o Water Conservation Department, )  
Parbhani, Tq. and Dist. Parbhani. ) .... **APPLICANT**

**V E R S U S**

1. **The Secretary,** )  
Soil & Water Conservation Department,)  
Maharashtra State, 1<sup>st</sup> Floor, )  
Mantralaya, Mumbai-32. )
2. **The Regional Soil & Water Conservation)**  
**Officer,** Aurangabad Region, Snehanagar,)  
Adalat Road, Aurangabad, )  
Tq. and Dist. Aurangabad. )... **RESPONDENTS**

**APPEARANCE** : Shri K.G. Salunke, Counsel for the Applicant.

: Shri M.B. Bharaswadkar, Chief Presenting  
Officer for respondent authorities.

**CORAM** : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

**RESERVED ON** : **28.06.2024**

**PRONOUNCED ON** : **23.07.2024**

**O R D E R**

1. Heard Shri K.G. Salunke, learned counsel appearing for the applicant and Shri M.B. Bharaswadkar, learned Chief Presenting Officer appearing for respondent authorities.

2. The present Original Application is disposed of finally with the consent of both the sides at the admission stage itself.

3. By filing the present Original Application, the applicant is seeking quashing and setting aside the suspension order dated 10.01.2023 issued by respondent No. 1 with the further directions to allow the applicant to discharge his duties on the post of Sub-Divisional Water Conservation Officer, Parbhani.

4. Brief facts as stated by the applicant giving rise to the present Original Application are as follows :-

(i) The applicant was initially appointed on the post of Deputy Engineer now designated as Sub-Divisional Water Conservation Officer. He had worked at different places as and when directed by his superior authorities. The applicant's request for transfer was considered in the year 2016 and he was given posting at Sub-Divisional Minor Irrigation (Local Sector) at Parbhani.

(ii) The applicant further contends that while he was working at Parbhani, the work of Jalyukta Shivar was carried out. The State of Maharashtra has implemented the said scheme throughout the State. The District Head of the

said scheme is the Collector concerned. At the time of Elections of Laksabha, the applicant was given the election duty. However, due to certain misunderstanding, the Collector, Parbhani has placed the applicant under suspension by order dated 03.04.2019.

(iii) The applicant has challenged the said order of suspension before this Tribunal initially and subsequently before the Hon'ble High Court by way of filing W.P. No. 7510/2019. By judgment and order dated 23.09.2019, the Hon'ble High Court was pleased to quash and set aside the suspension order of the applicant and the applicant was reinstated in service (Annexure A-1).

(iii) It is the further case of the applicant that when the applicant was initially appointed, there was only one department i.e. Irrigation Department. For smooth functioning of the said department it seems that, two departments were formed by issuing G.R. dated 31.05.2017 i.e. (i) Water Resources Department and (ii) Water Conservation Department. The appointment of the applicant is made by the Water Resources Department. However, the applicant since the day one of his services

came to be deputed to respondent No. 1 department. In pursuance to the G.R. dated 31.05.2017, the respondent No. 2 has issued certain guidelines as regards to calling options for absorption in respondent No. 2 department. Accordingly, the applicant has submitted his options through proper channel on 23.08.2017. The applicant has requested that he is interested in working in respondent No. 1 department and as such, his services be absorbed in respondent No. 1 department. There is a cut-off date as per the said G.R. dated 31.05.2017 for submitting the options for absorption. The applicant's option after cut-off date was not considered and since his option is received after the cut-off date, the seniority will be placed below the employees, who have given the options within cut-off date. The applicant has given applications/options on 23.08.2017.

(iv) It is the further case of the applicant that respondent No. 2 has issued letter dated 14.12.2021 addressed to respondent No. 1 while giving reference of letter dated 23.11.2021 issued by respondent No. 2. By the said letter dated 14.12.2021, the respondent No. 2 has forwarded in all three names including the name of the

applicant for consideration and absorption in respondent No. 1 department. Though the respondent No. 2 forwarded the name of the applicant and other two officers for absorption, there was no decision for a long period. Consequently the applicant has approached this Tribunal by way of filing O.A. No. 851/2022 seeking directions to respondent No. 1 to consider the proposal forwarded by respondent No. 2 of the applicant for absorption in the respondent No. 1 department. In which, this Tribunal on 23.09.2022 has granted interim relief as prayed for by the applicant in para No. 8(A) of the O.A. and ordered that the applicant may not be repatriated back to his parent department till filing of the affidavit in reply by the respondents. The said O.A. No. 851/2022 filed by the applicant is still pending for final adjudication before this Tribunal. Further in terms of interim order passed by this Tribunal as above, the respondent No. 1 had decided the proposal / application of the applicant and other two officers and respondent No. 1 has absorbed the applicant and other two officers in the respondent No. 1 by issuing order dated 30.11.2022. However, the respondent No. 1 has

put certain conditions as relates to seniority of the applicant and other two officers.

(v) The applicant further contends that the MLA Saw Meghna Sakoore Bordikar, Jintur constituency, Dist. Parbhani was pressurizing the applicant to allot the work tenders illegally to her relatives. The applicant has tried to explain her that the tender of work cannot be given in the method by which it was suggested. However, the MLA and her relatives getting annoyed started pressurizing the applicant. Even the applicant was given threat by the relative of the MLA. The applicant is even unable to file Police complaint. The said MLA personally was seating in the office of respondent No. 1 to repatriate the applicant to Water Resources Department. The said MLA started making complaints against the applicant to the respondents for either to transfer the applicant or to repatriate him. Even the additional charge, which was given to the applicant, was also withdrawn under the political pressure of said MLA. It clearly reveals from the letter written to respondent No. 2 by the said MLA. There are no complaints from the other public representatives.

(vi) The applicant contends that one Shri Kaviraj Kuchhe was working as District Conservation Officer, Parbhani. There was quarrel between the applicant and said Shri Kuchhe and therefore, the said Kuchhe has filed complaint against the applicant. The incidence which so happened was private in nature and the department was nowhere concerned as regards to the same. Further on the basis of the complained filed by Shri Kuchhe, NCR No. 1361/2022 came to be registered on 07.11.2022 against the applicant. The applicant has also filed complaint against the said Kuchhe. The applicant never arrested in connection with any crime.

(vii) It is the further case of the applicant that by order dated 10.01.2023, the respondent No. 1 has suspended the applicant by invoking the provisions of Rule 4(1)(a) and 4(1)(c) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979. Hence, the present Original Application.

5. Learned counsel for the applicant submits that the impugned order dated 10.01.2023 passed by respondent No. 1 is unsustainable in the eyes of law. It has been passed under the

colorable exercise of power with mala-fide intention under the political pressure to harass the applicant. Learned counsel submits that the impugned order of suspension came to be passed at the behest of MLA from Jintur constituency of Parbhani District.

6. Learned counsel for the applicant submits that in the impugned order dated 10.01.2023, it has been stated that the departmental enquiry will be initiated against the applicant. However, there is no reference as to on what count the departmental enquiry will be initiated against the applicant. Even the charge whatsoever kept on the applicant and even it will lead to minor punishment, for which the suspension of the applicant is unwarranted. Learned counsel submits that after going through the charges levelled against the applicant, there is no necessity to place the applicant under suspension.

7. Learned counsel for the applicant submits that posting of the applicant is at Parbhani. The said MLA is from Jintur constituency, who is consistently filing complaints against the applicant. However, the public representative from local Parbhani City has no grievance against the applicant. Learned counsel submits that the impugned order of suspension is illegal,



unwarranted and issued under the political pressure and the same is liable to be quashed and set aside.

8. Learned counsel for the applicant has placed his reliance on following case laws :-

- (i) W.P. No. 8987/2018 (Balasaheb V. Tidke Vs. The State of Maharashtra and Ors.), decided on 12.12.2018.
- (ii) W.P. No. 9660/2014 (The State of Maharashtra Vs. Dr. Subhash Dhondiram Mane), decided on 01.12.2014.
- (iii) Civil Appeal No. 1912/2015 (Arising out of SLP (C) No. 31761/2013) (Ajay Kumar Choudhary Vs. Union of India through its Secretary and Anr.), decided on 16.02.2015.
- (iv) O.A. No. 29/2018 (Shri Sunil Mahadu Saundane Vs. The State of Maharashtra and Ors.), decided on 13.09.2022 (Mumbai).
- (v) O.A. No. 46/2007 (Damodhar Vithoba Khillare Vs. The State of Maharashtra and Ors), decided on 20.04.2007 (Nagpur Bench).
- (vi) O.A. No. 63/2023 (Smt. Trupti Kolte Vs. The State of Maharashtra), decided on 28.03.2023 (Mumbai).
- (vii) 2009 DGLS(SC)1515, Union of India and Ors. Vs. Dipak Mali, decided on 15.12.2009.
- (viii) AIR Online 2020 Bom 723 (Ananthu Somaiah V. Goa Medical College), decided 30.06.2020.

9. Learned Presenting Officer on the basis of affidavit in reply filed on behalf of respondent Nos. 1 and 2 submits that the Original Application is not maintainable in view of availability of alternate remedy to the applicant in terms of Rule 17 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979.

10. Learned Presenting Officer submits that the impugned order has been issued in terms of Rule 4 of MCS(D&A) Rules, 1979. Misbehaving and mishandling with the District Soil and Water Conservation Officer at Parbhani is considered as serious aspect. The applicant, as well as, the said officer, who has mishandled were on duty and the controversy pertains to performance of duties of the applicant in his official capacity. Learned C.P.O. submits that there are another instances of unruly behaviour of the applicant in deliberate delay in extending the pension and pensionary benefits to the retired Soil Conservation Officer. Learned C.P.O. submits that insubordination and manhandling with the superior authority cannot be countenanced in administration and such behaviour will have to be dealt with iron hand. Learned C.P.O. submits that the respondent authorities are absolutely justified in placing the applicant under suspension due to indiscipline behaviour and contemplated disciplinary action against the applicant, which

has been specifically referred in the order of suspension. Learned C.P.O. submits that filing of a criminal complaint in the Police Station is altogether different aspect, however such unruly behaviour with the superiors will have to be taken to its logical end. Learned C.P.O. submits that to hold an enquiry against the delinquent officer is absolutely prerogative of the Government. Therefore, interference of this Tribunal is unwarranted. No fault can be found in the impugned order of placing the applicant under suspension.

11. Learned Chief Presenting Officer submits that vide letter dated 09.11.2022, the District Soil and Water Conservation Officer, Parbhani complained against the applicant to respondent No. 1 regarding various incidents of in-disciplinary and unruly behaviour of the applicant along with the incident of assault / manhandling with District Soil and Water Conservation Officer, Parbhani (Shri Kucche). Learned C.P.O. submits that similarly the applicant vide letter dated 27.10.2022 complained about the then District Soil and Water Conservation Officer, Parbhani (Shri Kucche) regarding irregularity in payment of survey works of Kolhapuri type weirs (0 to 100 Hect.) done in Parbhani District. Learned C.P.O. submits that based on both these complaints vide letter dated 07.12.2022, the respondent No. 1 directed the

Commissioner, Soil and Water Conservation to submit the detailed report.

12. Learned Chief Presenting Officer submits that meanwhile calling attention motion No. 950 was discussed in the Winter Session, 2022 of Maharashtra Legislative Assembly, wherein there were several serious complaints against the applicant were discussed. Learned C.P.O. submits that thus taking cognizance to those serious complaints, the concerned Hon'ble Minister declared on the floor of the Legislative Assembly that the applicant will be suspended and a detailed inquiry will be conducted against the applicant.

13. Learned Chief Presenting Officer submits that after giving consideration to the serious nature of complaints against the applicant, the applicant came to be suspended vide order dated 10.01.2023 and further vide memorandum dated 06.04.2023, the Departmental Enquiry is initiated against the applicant under Rule 8 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 with prior approval of the competent authority. Learned C.P.O. submits that though the department repeatedly attempted to serve the charge-sheet to the applicant, however, it was not accepted by the applicant.

Therefore, charge-sheet has been served on the applicant by Email on the applicant's Email ID on 17.10.2023. The applicant has also submitted his reply by Email on 15.01.2024.

14. Learned Chief Presenting Officer submits that since the applicant has denied all the charges levelled against him, in terms of the provisions of Maharashtra Civil Services (Discipline and Appeal) Rules, 1979, the Enquiry Officer and Presenting Officer came to be appointed for further detail inquiry in this matter vide order dated 20.02.2024.

15. Learned Chief Presenting Officer submits that by order dated 10.01.2023 the applicant came to be suspended. It was necessary to take review of said suspension. Hence, the matter was submitted to the disciplinary authority for review on 09.02.2024. Learned C.P.O. submits that in the given circumstances and considering the nature of allegations against the applicant, it was necessary to keep away the applicant from administrative and official work. Thus the competent authority has taken a decision to further continue the suspension of the applicant.

16. Learned Chief Presenting Officer submits that the allegations levelled by the applicant are baseless and vague.

Three Member Enquiry Committee has conducted the detailed enquiry and submitted its report vide letter dated 18.07.2023. Learned C.P.O. submits that there is no substance in the present Original application and the same is liable to be dismissed.

17. Learned counsel for the applicant submits that on the basis of declaration of suspension of the applicant in Assembly, by order dated 10.01.2023 the respondent No. 1 has placed the applicant under suspension. Learned counsel submits that the said act on the part of Hon'ble Minister, as well as, respondent No. 1 is patently illegal and cannot be sustained in the eyes of law. Learned counsel submits that the suspension of the applicant is at the behest of learned MLA from Jintur Constituency, Dist. Parbhani and one Shri Kaviraj Kuchee working as District Soil and Water Conservation Officer. Learned counsel submits that Hon'ble MLA has raised 'attention question' against the applicant in the Assembly while making each and every false allegation. Learned counsel for the applicant submits that Hon'ble Minister in his conversation also admits the fact that he has not taken briefing in respect of attention question, however, contends that he will come to the main point stating that the question raised by the Hon'ble MLA has substance and as such, he is placing the applicant under suspension. Learned

counsel submits that from this act of the politicians, it is abundant clear that how the politicians are acting towards the officers, who do not act as per the whims of the politicians. Learned counsel submits that though the applicant is challenging the legality of his suspension, however at this stage taking a review of suspension is patently illegal and cannot be sustained in the eyes of law. Learned counsel submits that while taking review and continuing the suspension of the applicant respondent No. 1 nowhere stated that the charges against the applicant are of so serious nature that will result into dismissal or removal of the applicant from service or reversion in rank. It is also nowhere stated by respondent No. 1 that if the applicant is reinstated, he may tamper any document.

18. Learned counsel for the applicant submits that the suspension of the applicant is illegal in view of the law laid down by the Hon'ble Apex Court as the respondents have not taken review of the suspension of the applicant after 90 days after issuance of suspension order.

19. Learned counsel for the applicant along with his written notes of arguments placed reliance on the following case laws :-

- (i) O.A. No. 792/2023 (Jyoti Rajaram Pawar Vs. The State of Maharashtra and Ors.), decided on 24.11.2023 (Aurangabad Bench).
- (ii) O.A. No. 644/2023 (Asha Balaji Garud Vs. The State of Maharashtra and Ors.), decided on 24.11.2023 (Aurangabad).
- (iii) O.A. No. 422/2020 (Dilip Ravindra Bhosle Vs. The Commandant S.R.P.F., Navi Mumbai), decided on 20.10.2021 (Mumbai).
- (iv) W.P. No. 6304/2023 (Sonal Prakashrao Gawande Vs. The Municipal Council, Pandharkawada), decided on 21.03.2024 (Nagpur Bench).
- (v) O.A. Nos. 205, 206 & 207 all of 2024 (Vasrsha Landge and Ors. Vs. The State of Maharashtra & Ors.), decided on 02.04.2024 (Mumbai through Video conferencing).

20. After the matter is reserved for orders, learned Chief Presenting Officer has filed pursis to place on record the relevant extract of Maharashtra Legislative Assembly Rules, 2015 and documents with short note of submission. Learned C.P.O. submits that the Members of Legislative Assembly are elected representative of the people. As regards the functioning of the officers of the Government is concerned, it is difficult for his subordinates, as well as, the people at large to make complaints



before the higher authorities / officers. Being a local representative of the people, the Members of Legislative Assembly are easily reachable for the common people to ventilate their grievance. Thus considering the grievance put-forth before the MLA and the same are asked in the form of question under Rule 105 of Maharashtra Legislative Assembly Rules, 2015, to which the answers are given in the House. Learned C.P.O. submits that the same would not amount to political pressure and political indulgence in the administration.

21. Learned Chief Presenting Officer submits that the applicant has neither made out case as regards mala-fide intention or motive while passing the suspension order.

22. By way of filing the present Original Application, the applicant is challenging the impugned order of suspension dated 10.01.2023 mainly on the ground that the suspension order has been issued under the political pressure and under the colorable exercise of powers. The applicant has raised various grounds to substantiate the same. The applicant has specifically raised ground that the suspension order has been issued on the basis of the complaint filed by one MLA. Learned counsel for the applicant has also raised specific ground that on the basis of

declaration of suspension of the applicant in Assembly, by order dated 10.01.2023 the respondent No. 1 has placed the applicant under suspension. Learned counsel for the applicant has vehemently submitted that the said act on the part of Hon'ble Minister, as well as, respondent No. 1 is patently illegal and not sustainable in the eyes of law. It is also one of the grounds raised by the learned counsel for the applicant that the respondents have not taken review of the suspension of the applicant after 90 days and as such, in view of the law laid down by the Hon'ble Apex Court in the case of **Ajay Kumar Choudhary Vs. Union of India through its Secretary and Anr.** and in terms of the G.R. dated 09.07.2019, continuation of the suspension of the applicant is patently illegal.

23. I have considered the oral submissions, so also, written notes of argument of both the sides. I have perused the annexures filed by both the sides carefully.

24. On perusal of the impugned order of suspension, I find that the reasons in brief are mentioned in the suspension order, which led the respondent No. 1 to pass the suspension order against the applicant.

25. It appears that in the context of questionable behaviour of the applicant while rendering services as public servant, the MLA concerned has raised a question in the Assembly. The said question as it appears from the short note of submission from the learned Chief Presenting Officer under Rule 105 of Maharashtra Legislative Assembly Rules, 2015. The said Rule 105 of the said Rules of 2015 reads as under :-

*“105 (1) A member may, with the previous permission of the Speaker, call the attention of a Minister to any matter of urgent public importance and the Minister may make a brief statement or ask for time to make a statement at a later hour or date.”*

26. In accordance with the submissions made by learned Chief Presenting Officer that the Members of Legislative Assembly being the elected representative of the people has invited attention of the Assembly to the question of public importance including the questionable behaviour of the public servant. It is usually difficult for the ordinary people to file complaint or make their grievance publicly against the public servant holding key post. It is comparatively easy for them to approach the concerned MLA to redress their grievance. In view of the same, usually the said grievance put forth before the concerned MLA. The attention of the Assembly is invited in the nature of question as per the provisions of Rule 105 of the Maharashtra Legislative

Assembly, Rules 2015. In connection with the said question, the Hon'ble Minister is required to make brief submission by collecting information from the concerned department and corrective measures are usually taken by making statement in the Assembly to that effect by the concerned Hon'ble Minister.

27. I have carefully gone through the annexures submitted along with the short note of submission by the learned Chief Presenting Officer and it appears that on the basis of question raised by the concerned MLA, certain assurance has been given by the Hon'ble Chief Minister and Hon'ble Minister about enquiring into the matter and immediate action against the erring official. In my considering opinion, if such attempt is made and certain announcement is made on the basis of information received from the concerned department, the same cannot be taken and treated as using political influence to suspend the Government employee.

28. It further appears that misbehavior and mishandling of the District Soil and Water Conservation Officer at Parbhani by the applicant was seriously considered by the department. Further the controversy pertaining to performance of the applicant in his official capacity. There are instances of unruly

behaviour of the applicant, so also, deliberate delay in forwarding the pension papers and releasing the pension and pensionary benefits to the retired Soil Conservation Officer. It further appears that insubordination and manhandling with the superior authority has taken seriously by the department. The department has considered this act affecting the administration and found it necessary to dealt with iron hand. It further appears that in response to the question raised as attention motion No. 950 in the Assembly, the concerned Hon'ble Minister assured house that detailed enquiry will be conducted against the applicant. Based upon this assurance, 03 Members committee was formed under the Chairmanship of Chief Engineer and Joint Secretary, Soil and Water Conservation department. Though the learned counsel for the applicant on instructions has tried to defend the applicant against the various allegations made against him, however, it is not possible to consider the defense at this stage and make observations prematurely that the suspension order is illegal, without merits, with mala-fide intentions, under the colorable exercise of powers and under the political pressure.

29. So far as the issue of non-reviewing the suspension of the applicant after the period of 90 days is concerned, on perusal of the annexures carefully it appears that the departmental

charge-sheet has been prepared well within a period of three months i.e. on 06.04.2023. However, it further appears on perusal of the annexures that the respondent authorities have tried to serve copy of the charge-sheet on the applicant in person, but he was not accepting it. Even the respondents have tried to contact the applicant on his telephone as recorded in the service book, however, the applicant is neither responded on phone or by any other mode. Even in the order dated 30.11.2023, the Hon'ble High Court of Bombay, Bench at Aurangabad in Civil Appeal No. 11799 of 2023 in W.P. No. 2648/2023 filed by the applicant, it is observed that on the basis of statement made by learned Advocate for the applicant therein that the applicant has received charge-sheet dated 06.04.2023 by Email on 18.10.2023 and that the applicant has not tendered a reply to the charge-sheet. It further appears from the said order dated 30.11.2023 that the learned AGP has made statement that time and again attempts to serve the charge-sheet on the applicant were made. Even in para No. 3 of the said order dated 30.11.2023, the Hon'ble Division Bench found from the envelope that the applicant has been purportedly refused to be accepted, as the address of the petitioner is shown to be his office premises. It is observed that during suspension the applicant cannot be expected to be in the

office premises and there is document indicating that the notice attempted to be served on his residential address.

30. It further appears that the applicant's suspension matter was submitted to the disciplinary authority on 09.02.2024 for review. The Review Committee has considered the nature of allegations made against the applicant and found it necessary to keep away the applicant from administrative and official work. Thus the competent authority has taken a decision to further continue the suspension of the applicant.

31. Learned counsel for the applicant has placed his reliance on various case laws. However, in the peculiar facts and circumstances of the present case and considering the serious allegations made against the applicant, I do not think that the suspension order issued against the applicant is baseless and without merits. In my considered opinion, it is not colorable exercise of powers with mala-fide intentions. I do not think that due to political influence the applicant came to be suspended. I find that the MLA concerned has raised question in the Assembly bringing attention of the house and the Hon'ble Minister concerned was constrained to make a statement to the said question on the basis of information submitted by the concerned

department. It appears that the statement was made before the Assembly for conducting detailed enquiry against the applicant so also announcement made about further immediate action against the applicant. It further appears that the department has not mechanically responded to the said statement made in the Assembly, but appointed 03 Members committee headed by top officials of the department and after noticing the prima-facie substance in the allegations made against the applicant, passed the order of suspension against the applicant.

32. In view of above discussions, in my humble opinion, no case is made out by the applicant to interfere in the impugned order of suspension and to hold that the order is without merits and passed under the political influence. There is no substance in the present Original Application and the same is liable to be dismissed. Hence, the following order :-

**ORDER**

- (i) The Original Application is hereby dismissed.
- (ii) In the circumstances there shall be no order as to costs.
- (iii) The Original Application is accordingly disposed of.

**PLACE : Aurangabad.**

**DATE : 23.07.2024**

**KPB S.B. O.A. No. 44 of 2023 VKJ Suspension**

**(Justice V.K. Jadhav)**

**Member (J)**