

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.1408 OF 2024

**DISTRICT : PUNE
SUB : Suspension**

Shri Dattatraya Abaji Kshirsagar,)
Aged 53 Yrs, Occ. Service,)
Working as Director of Library,)
Maharashtra State, Having Office at)
Second Floor, Town Hall, Shahid Bhagat Singh)
Road, Fort Mumbai-400001.)
R/o - Dreamland Housing Society,)
Flat no -19, Vidyanagar, Road No 13 -D,)
Pune -32.)....Applicant

Versus

1. The State of Maharashtra, through the)
Principal Secretary, Higher and Technical)
Education Department, Having Office at)
Mantralaya, Mumbai - 400 032.)
2. The Deputy Secretary, Higher and)
Technical Education Department, having office)
At Mantralaya, Mumbai 400 032.)..Respondents.

Shri A. S. Gaikwad, learned Advocate for the Applicant.

Smt. Kranti Gaikwad, learned Presenting Officer for the Respondent.

Shri M. Kelkar, learned Advocate for Respondent No.2.

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

Reserved on : 24.01.2025

Pronounced on : 28.01.2025

JUDGEMENT

Heard Shri A. S. Gaikwad, learned Advocate for the Applicant,
Smt. Kranti Gaikwad, learned Presenting Officer for the Respondent No.1
and Shri M. Kelkar, learned Advocate for the Respondent No.2.

2. Undisputed facts are as follows :-

The Applicant was appointed as 'Director of Libraries' in the Directorate of Libraries, State of Maharashtra on 11.10.2022. On receipt of some complaints against him from people's representatives alleging huge purchases of books in breach of G.R. dated 27.08.2014 issued by the Planning Department, Government of Maharashtra, preliminary enquiry was conducted. The officer who conducted the preliminary enquiry concluded that purchases of books were made as per the Rules of the Government and inspite of grant of ample time, the complainants could not furnish any evidence to the contrary. The State Government, by issuing G.R. dated 20.12.2023 constituted a High Power Committee. The said Committee, in its report dated 29.01.2024 indicted the Applicant of purchases of books which were irregular, contrary to rules and suspicious. The Committee concluded -

"५. शासन निर्णय, नियोजन विभाग दि.२७.०८.२०१४ अन्वये नाविन्यपूर्ण योजनांची कार्यपद्धती, अनुज्ञेय बाबी व अनुज्ञेय नसलेल्या बाबी याबाबत मार्गदर्शक सुचना निर्गमित केलेल्या आहेत. सदर शासन निर्णयातील परिशिष्ट अ मधील परिच्छेद ५ मधील तरतुदीनुसार नाविन्यपूर्ण योजना ग्रंथ खरेदीचा समावेश करता येणार नाही, असे निर्देश संचालकांनी दि.१८.०१.२०२३ रोजीच्या परिपत्रकान्वये सर्व जिल्हा ग्रंथालय अधिकारी यांना दिले होते. शासनाच्या कार्यप्रणाली नुसार नियोजन विभागाच्या शासन निर्णयातील तरतुदींशी विसंगत काही सुचना दयावयाच्या झाल्यास संचालकांनी त्याविषयीचा यथोचित प्रस्ताव शासनाच्या उच्च व तंत्र शिक्षण विभागाकडे पाठविणे आवश्यक होते. उच्च व तंत्र शिक्षण विभागामार्फत नियोजन विभागाचे अभिप्राय घेवून त्यानुसार लेखी शासन निर्देश प्राप्त झाल्यानंतर संचालकांनी आवश्यक त्या सुचना जिल्हा ग्रंथालय अधिकारी यांना देणे आवश्यक होते. श्री. क्षिरसागर यांची संचालक पदावर निवड होण्यापूर्वी ते याच ग्रंथालय संचालनालयांतर्गत सहायक संचालक या पदावर कार्यरत होते. त्यामुळे त्यांना शासकीय कार्यप्रणालीचा अनुभव होता. असे असताना शासनाचे कोणतीही परवानगी न घेता, श्री क्षिरसागर यांनी दि.१०.०२.२०२३ रोजीचे पत्र निर्गमित केले, ही बाब शासनाच्या कार्यप्रणालीचा भंग करणारी ठरते.

६. नाविन्यपूर्ण योजनेच्या अनुषंगाने राज्यातील सर्व जिल्हा नियोजन समित्यांना काही निर्देश दयावयाच्या झाल्यास किंवा नाविन्यपूर्ण योजनांच्या अनुषंगाने काही स्पष्टीकरण दयावयाचे झाल्यास त्याबाबतची कार्यवाही करण्याची बाब शासनाच्या अधिकार कक्षेतील आहे. परंतु, नाविन्यपूर्ण योजनेबाबत नियोजन विभागाच्या शासन निर्णयातील तरतुदींशी विसंगत सुचना श्री

क्षिरसागर यांनी दि.१०.०२.२०२३ रोजीच्या पत्रान्वये दिल्या. श्री क्षिरसागर यांनी त्यांच्या परिविक्षा कालावधीत केलेली सदर कृती ही त्यांच्या अधिकार कक्षेबाहेरील असून शासनाच्या अधिकार कक्षेचा भंग करणारी ठरते.

७. सबब, श्री. क्षिरसागर यांनी नाविण्यपूर्ण योजनेअंतर्गत पुस्तक खरेदी न करण्याबाबतच्या दि.१८.०१.२०२३ रोजीच्या परिपत्रकाची अंमलबजावणी दि.०१.०४.२०२३ नंतर करणेबाबतच्या सूचना दि.१०.०२.२०२३ रोजीच्या पत्रान्वये दिलेल्या आहेत. सदर कार्यवाही शासनाच्या लेखी परवानगीशिवाय व संचालक, ग्रंथालय, संचालनालय यांच्या अधिकार क्षेत्राबाहेर जावून केली असल्याचे उपलब्ध कागदपत्रांवरून समितीच्या निदर्शनास आले. नैसर्गिक न्यायतत्वाचा विचार करता, या अनियमिततेबाबत श्री. क्षिरसागर यांना कारणे दाखवा नोटीस बजावून व त्यावर त्यांचे लेखी म्हणणे घेवून विभागाने पुढील कार्यवाही करावी असे समितीचे मत आहे.

८. शासन निर्णय, उद्योग, उर्जा व कामगार विभाग, दि.०१.१२.२०१६ नुसार रु. दहा लक्ष वरील खरेदी ई निविदेद्वारे करणे बंधनकारक आहे. तसेच खरेदी समितीच्या दि.२१.१२.२०२२ रोजीच्या बैठकीच्या इतिवृत्ताचे अवलोकन केले असता, ग्रंथालय संचालनालयाने पुस्तके खरेदी करिता सन २०२२-२३ मध्ये जाहिर केलेल्या सूट दराच्या अधिन राहून तसेच उद्योग उर्जा व कामगार विभाग शासन निर्णय दि.०१.१२.२०१६, शासनाने वेळोवेळी निर्गमित केलेले शासन निर्णय, परिपत्रके यांच्या अधिन राहून प्रस्तावित ग्रंथ खरेदी करण्यास सर्वानुमते समिती मान्यता देण्यात येत आहे, तसेच साधन सामुग्री खरेदीसाठी GeM वरून खरेदी करण्यास प्राधान्य देण्यात यावे, असा ठराव पारित केला आहे. सदर ठराव पारित केल्यानंतरही पुस्तक खरेदी करण्यासाठी ई-निविदा प्रक्रियेचे अवलंब न करता दरपत्रकान्वये खरेदी करण्यात आलेली आहे. सदर कार्यवाही नियमबाह्य ठरते.

९. खरेदी प्रक्रियेकरीता प्राप्त दरपत्रकाचे अवलोकन केले असता दि.१३.०२.२०२३ ते २४.०२.२०२३ या कालावधीची मुदत असताना तीनही दरपत्रके एकाच दिवशी म्हणजे दि.२०.०२.२०२३ रोजी जिल्हा ग्रंथालय अधिकारी यांच्या कार्यालयात आवक क्रमांक सुद्धा लगतचे म्हणजेच १८७९, १८८० व १८८१ असे प्राप्त झालेले आहेत सदर बाब संशयास्पद असल्याचे दिसून येते.”

To the show cause notice dated 14.02.2024, the Applicant gave reply dated 23.02.2024 and claimed that he had nothing to do with irregular purchases of books made by the District Library Officer, Solapur.

By the impugned order dated 16.03.2024, the Respondent No.1 placed the Applicant under suspension in contemplation of initiation of

D.E. The D.E. against the Applicant commenced with issuance of charge sheet dated 14.06.2024. On 18.06.2024, corrigendum to charge sheet dated 14.06.2024 was issued.

3. The main stand of the Applicant in this Original Application is that he was not served with the charge sheet within 90 days/three months from the date of order of suspension and hence his suspension was liable to be revoked at once.

4. Stand of the Respondents is as follows:-

When complaints received against the Applicant were looked into, it was revealed that the Applicant and District Library Officer, Solapur had, in collusion with each other, purchased books valued at around Rs. two and half Crores. It was further revealed that the Applicant had exceeded powers vested in him. A show cause notice was issued to him. He was served with a charge sheet dated 14.06.2024 which was within 90 days/three months from the date of order of suspension i.e. 16.03.2024. By order dated 09.10.2024, the Respondent No.2 has been appointed as 'Enquiry Officer' in the joint departmental enquiry against the Applicant and the District Library Officer, Solapur Shri Santosh Jadhav. The Respondent No.1 reviewed the matter of suspension of the Applicant and the other delinquent and passed the order dated 15.10.2024 to extend their suspension by further three months.

5. The Applicant has relied on **Ajay Kumar Choudhary V/s Union of India, (2015) 7 SCC 291**. On the basis of this judgment the GAD, Government of Maharashtra has issued a G.R. dated 09.07.2019 which states -

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. १११२/२०१५) 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.

(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 प्राधिकाऱ्याच्या स्तरावर घेण्यात यावा.

i) निलंबित शासकीय सेवकांच्या ज्या प्रकरणी ३ महिन्यांच्या कालावधीत विभागीय चौकशी सुरु करुन 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 करुन 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 करुन दोषारोप पत्र बजावणेबाबत आवश्यक तो अभिलेख लाचलुचपत प्रतिबंधक विभागाने संबंधीत प्रशासकीय विभागास उपलब्ध करुन देणे आवश्यक राहिल.

या आदेशातील तरतुदींमुळे या विषयावरील संदर्भ १ व २ येथील आदेशांतील तरतुदी या आदेशाच्या मर्यादित सुधारण्यात आल्या आहेत असे समजण्यात यावे.”

6. The Applicant has placed on record the office Memorandum dated 23.08.2016 issued by the DOPT. In this Memorandum also Para 14 of the judgment in the case of **Ajay Kumar Choudhary** (Supra) is quoted and it is directed –

“ In compliance of the above judgement, it has been decided that where a Government servant is placed under suspension, the order of suspension should not extend beyond three months, if within this period the charge-sheet is not served to the charged officer. As such, it should be ensured that the charge sheet is issued before expiry of 90 days from the date of suspension. As the suspension will lapse in case this time line is not adhered to, a close watch needs to be kept at all levels to ensure that charge sheets are issued in time.”

7. A conjoint consideration of ratio laid down in **Ajay Kumar Choudhary's** case (supra), the G.R. dated 09.07.2019 and Office Memorandum of DOPT dated 23.08.2016 leads me to conclude that charge sheet has to be issued within 90 days/three months from the date of issuance of order of suspension so as to avoid consequence of revocation of order of suspension on account of failure to do so. So far as this aspect of the matter is concerned, reliance may be placed on **Delhi Development Authority v/s H. C. Khurana, 1993 AIR 1488** wherein it is held :-

"5. 'Issue' of the chargesheet in the context of a decision taken to initiate the disciplinary proceedings must mean, as it does, the framing of the chargesheet and taking of the necessary action to despatch the chargesheet to the employee to inform him of the charges framed against him requiring his explanation; and not also the further fact of service of the chargesheet on the employee. It is so, because knowledge to the employee of the charges framed against him, on the basis of the decision taken to initiate disciplinary proceedings, does not form a part of the decision making process of the authorities to initiate the disciplinary proceedings, even if framing the charges forms a part of that process in certain situations.

6. The meaning of the word 'issued' has to be gathered from the context in which it is used. The issue of a chargesheet, therefore, means its despatch to the government servant, and this act is complete the moment steps are taken for the purpose, by framing the chargesheet and despatching it to the government servant, the further fact of its actual service on the government 'servant not being a necessary part of its requirement. This is the sense in which the word 'issue' was used in the expression 'chargesheet has already been issued to the employees', in para 17 of the decision in Janakiraman."

In this case, the order of suspension was passed on 16.03.2024 and charge sheet was initially issued on 14.06.2024. This was followed by corrigendum (to charge sheet) dated 18.06.2024. Since the corrigendum forms part and parcel of the charge sheet, it will have to be held that the charge sheet in this case was issued on 18.06.2024 which was beyond the stipulated period of three months. Assuming that the date of corrigendum would relate back to the date of issuance of charge sheet dated 14.06.2024, the following hurdle would still remain in the way of the Respondents i.e. duration within which order of suspension should have been reviewed. The review of order of suspension dated 16.03.2024 was not taken within three months therefrom. The review was taken only on 15.10.2024. On account of both these flaws, further continuation of order of suspension of the Applicant would be impermissible. The Original Application is, therefore, allowed in following terms :-

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ORDER

- (A) The Respondents are directed to pass the order of revocation of suspension of the Applicant within seven days from today.
- (B) Prayer clause (b) is allowed only to the aforesaid extent and prayer clauses (c) and (d) are rejected.
- (C) It would be open to the Respondents to suitably post the Applicant in the light of observations made in Para 14 of the judgement in **Ajay Kumar Choudhary** (supra).
- (D) No order as to costs.

Sd/-

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

Place: Mumbai
Date: 28.01.2025.
Dictation taken by: V. S. Mane
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