

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.1053 OF 2024**

**DISTRICT : PUNE  
SUBJECT : SUSPENSION**

Miss. Shailaja Ramchandra Darade )  
Age:53 years, Occ: Service, Residing at 1004, )  
River In Greens Society, Pashan Sus Road, Pashan )  
Pune - 411 021. )... **Applicant**

**Versus**

- 1) The State of Maharashtra )  
Through Principle Secretary, )  
School Education Department, Mantralaya, )  
Mumbai- 400 032. )
- 2) The Commissioner of Education, )  
Central Building, 1st Floor, )  
Dr. Annie Besant Road, Akarkar Road, )  
Pune - 411 002. )
- 3) The Maharashtra State Council of )  
Examination Through its Chairman, )  
Final Sr No 832/A, Shivaji Nagar, Pune 411004 )...**Respondents**

**Shri Shrikant D. Patil, learned Advocate for the Applicant.**

**Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.**

**CORAM : M.A. LOVEKAR, VICE-CHAIRMAN**

**RESERVED ON : 28.02.2025**

**PRONOUNCED ON : 03.03.2025**

**JUDGMENT**

1. Heard Shri S.D. Patil, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. Case of the applicant is as follows. The applicant holds the post of Deputy Director, Education. On 22.02.2023 one Popat Sukhdev Suryavanshi lodged a report at Hadapsar, Pune Police Station against the applicant and others whereupon Crime no.334/2023 came to be registered under sections 406, 420 read with 34, IPC. Respondent No.2 issued a Notice to the Applicant on 26.02.2023 calling upon her to show cause why she should not be placed under suspension. The applicant gave reply dated 06.03.2023 to the Show Cause Notice. By the impugned order dated 21.07.2023 the applicant was placed under suspension under Rule 4(2)(a) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979. The Applicant had no role to play in the alleged crime. She was arrested on 07.08.2023. Her regular Bail Application was allowed by order dated 27.11.2023. However, within the period of three months neither charge-sheet of Departmental Enquiry was issued to her nor was the matter of revocation or extension of her suspension reviewed. On 30.11.2023, 02.01.2024, 18.01.2024 and 20.02.2024 the applicant made representations that her suspension be revoked. On 26.02.2024 an order was issued to extend suspension period of the applicant on the grounds that serious criminal case was registered against her, Departmental Enquiry was yet to begin and permission to initiate the same was in the process of being granted. In view of ratio laid down in ***Ajay Kumar Choudhary Vs. Union of India & Anr. (2015) 7 SCC 291*** further suspension would be impermissible. Hence, this Original Application.

3. Stand of respondent no.2 is as follow. Allegations against the applicant are serious in nature. Conduct of the applicant is not aboveboard. Conscious decision was taken from time to time by the Review Committee to extend period of suspension of the applicant. Last such review was taken on 12.07.2024 and the decision to extend the period of suspension was communicated to the applicant by order dated 19.08.2024. Impugned order is legal and proper. Hence, the Original Application deserves to be dismissed.

4. By filing a rejoinder the Applicant has reiterated her stand that in view of ratio laid down in the **Ajay Kumar Choudhary (supra)** her suspension deserves to be revoked at once.

5. G.R. dated 09.07.2019 issued by G.A.D, Government of Maharashtra refers to **Ajay Kumar Choudhary (supra)** and further states –

**“शासन निर्णय :-**

निलंबित शासकीय अधिकारी / कर्मचार-यांच्या 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. १९१२/२०१५) 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 कर्मचा-यांना ९०

दिवसांच्या मुदतीत दोषारोप पत्र बजावून त्यांच्या निलंबनाच्या आढाव्या संदर्भातील तरतुदी सुधारण्याची बाब शासनाच्या विचाराधीन होती.

**शासन निर्णय :-**

१. या अनुषंगाने शासकीय कर्मचा-यांच्या निलंबनाचा आढावा घेण्यासंदर्भात पुढीलप्रमाणे सूचना देण्यात येत आहेत.

- i) 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 प्राधिका-यांच्या 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 आदेशांतील तरतुदी या आदेशाच्या मर्यादित सुधारण्यात आल्या आहेत असे समजण्यात यावे.”

6. In Judgement dated 21.03.2024 in ***Writ Petition No.6304/2023 (Sonal D/o Prakashrao Gawande v/s. The Municipal Council Pandharkawada)*** the Hon'ble Bombay High Court has held –

“13. It is imperative to note that on 9<sup>th</sup> July, 2019 the State Government issued instructions as regards the suspension and thereby it was directed that in a case when the departmental inquiry has been initiated and the chargesheet is served upon the delinquent within three months from the date of suspension, a review shall be made about the continuation of order of suspension and a clear decision shall be taken in this respect. The said Government Resolution further says that where in a case after suspension within three months the departmental inquiry has not been initiated or the chargesheet is not served upon the delinquent, as per the judgment of the Hon'ble Supreme Court of India, the only option left is to cancel the suspension.”

7. In the instant case the applicant was placed under suspension on 21.07.2023. She was neither served with the charge-sheet of Departmental Enquiry nor was the matter of revocation or extension of her suspension reviewed within the period of three months from the date of the order of her suspension as mandated by the Hon'ble Supreme Court in **Ajay Kumar Choudhary (supra)**. As a consequence, further suspension of the applicant would be contrary to the legal position. Therefore, directions will have to be given to revoke her suspension.

8. It was further argued by Adv. Shri Patil that period of suspension of the applicant beyond 90 days will have to be treated as duty period and it be declared that she is entitled to get full Pay and Allowances for such period. This submission is supported by the view taken by this Tribunal in the following Judgements:-

- A) **O.A. No.1016/2023 (Shri Sachin C. Tamkhede v/s. The State of Maharashtra)**. Judgement of Principal Bench dated 10.01.2025.
- B) Judgment of the Aurangabad Bench of this Tribunal dated 07.07.2021 in **O. A. No.69/2020 (Suresh S/o. Ghanshyam Tandale V/s State of Maharashtra & 3 Ors.)**. In this case, it is held that on expiry of 90 days order of suspension ceases to exist.
- C) Judgment of the Principal Bench of this Tribunal dated 13.04.2023 in **O.A.No.1225/2022 (Shri Ravindra Mansing Kadam V/s the Commission of Police, Pune City)**. In this case, it is held that suspended employee is entitled to full pay and allowances on expiry of three months from the date of order of suspension.

9. In view of factual and legal position discussed hereinabove, the Original Application is allowed in the following terms. Respondent No.1 is directed to pass the consequential order of revocation of suspension of the applicant within 10 days from today. The applicant is held entitled to full Pay and Allowances for the period of

her suspension beyond 90 days. The same shall be paid to her within two months from today. No order as to costs.

**Sd/-  
(M.A. Lovekar)  
Vice-Chairman**

Place: Mumbai  
Date: 03.03.2025  
Dictation taken by: N.M. Naik.

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