

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

ORIGINAL APPLICATION NO. 60 OF 2025

DISTRICT : NANDED

Vishwadeep Ramchandra Rode,)
Age : 37 years, Occu. : Service i.e. P.S.I.)
R/o Harsh Nagar, Hudco, Parbhani,)
Tq. & Dist. Parbhani.)

.... APPLICANT

V E R S U S

01. **The State of Maharashtra,**)
Through it's Principal Secretary,)
Department of Home, Mantralaya,)
Mumbai.)

02. **The Deputy Inspector General,**)
Nanded Range, Nanded, Basveshwar)
Chowk, Navin Kautha, Cidco Road,)
Nanded-431603.)

03. **The Superintendent of Police,**)
Nanded, Dist. Nanded.)

04. **Police Inspector,**)
Nanded Rural Police Station, Nanded,)
Dist. Nanded.)

... RESPONDENTS

APPEARANCE : Shri Sachin Deshmukh, learned Counsel for
the Applicant.

: Shri D.M. Hange, learned Presenting Officer for
respondent authorities.

CORAM : **Shri A.N. Karmarkar, Member (J)**

RESERVED ON : **28.02.2025**

PRONOUNCED ON : **07.03.2025**

ORDER

1. By filing the present Original Application, the applicant has prayed for quashing and setting aside impugned suspension order dated 13.01.2025 issued by respondent No. 2.

2. Initially the applicant has joined the services as Constable in the year 2010. Thereafter he has passed the departmental examination conducted by MPSC in 2018 and promoted as Police Sub-Inspector. The complaint of missing was registered by one Shivaji Shinde on 06.01.2025. It is alleged that to register crime as alleged, there was demand of money by Police officials. On the next day i.e. 07.01.2025 said Shivaji Shinde clarified that the amount was never demanded by the police officials and it was demanded by middle man for hiring vehicle. Statement of others reiterates the fact that there was no demand of money by the police officials.

One Vishnudas Prakash Fatekar has stated in his statement that when he along with his wife i.e. Manisha daughter of complainant Shivaji went to Nashik for visiting temple, his wife Manisha left the lodge on 04.01.2025 at 7.00 am with luggage. She was not traced out. So missing complaint was registered at Panchwati Police Station Nashik bearing No.

7/2025. On 06.01.2025, the same complaint was reported to Rural Police Station Nanded. Upon disclosure of said instance regarding theft, FIR came to be registered. It was clarified that to avail private vehicle, one middle man demanded money. Respondent No. 4 has submitted detailed report unfolding sequence of events based on the statement of complainant that there is no assertion of demand of money by police officials.

According to the applicant, the respondent No. 2 has acted in contravention of the statutory provisions and in absence of prima-facie material passed the order of suspension. According to the applicant, the respondent No. 2 has passed the order of suspension with an unprecedented hurry and also initiated Departmental Enquiry on 10.01.2025 itself, whereas the complaint itself shown to have been received in the office of respondent No. 2 on 13.01.2025. Mandate of Rule 441 of Bombay Police Manual is also not adhered to by respondent No. 2. The applicant was neither officer on duty nor was in charge of Police Station at the relevant point of time when the complainant Shivaji had been to the Police Station on 06.01.2025.

3. Respondent Nos. 2 and 3 have filed their affidavit in reply. According to them, the impugned order of suspension is

issued under Section 25 of Maharashtra Police Act 1951 and Rule 3 of Bombay Police (Punishment and Appeals) Rules, 1956. The applicant should have availed the alternate remedy as per Section 27 of the Maharashtra Police Act and Rule 9 of Bombay Police (Punishment and Appeals) Rules, 1956. So the present Original Application cannot be entertained. Secondly, this is very premature stage to file such application. The applicant has not made out case of alleged victimization. It is denied that the action of respondent is illegal. As per the order dated 13.01.2025, the respondent No. 2 has placed the present applicant under suspension in contemplation of enquiry and directed to have Preliminary Enquiry. The Enquiry Officer has submitted his report on 08.01.2025 and the same is forwarded to respondent No. 2 on 04.02.2025. There are serious allegations against the applicant about demand of bribe, which can be said to be grave misconduct while discharging official duties.

4. Respondent No. 4 has also filed affidavit in reply. According to him, one complainant Shivaji Shinde went to Police Station Nanded (Rural) on 06.01.2025 and informed that his daughter went to Nashik with her husband, but she eloped with her friend. A missing report was already registered at Panchavati Police Station Nashik. Duty officer told him that Nashik Police is

doing enquiry. But on that day, the complainant went to office of Deputy Inspector General of Police, Nanded Range, Nanded and submitted his application with allegation of demand of money by Policeman. On 07.01.2025, the complainant Shivaji went to the office of Superintendent of Police, Nanded and submitted application mentioning that his son-in-law lodged report at Police Station Nanded (Rural) and at that time the Police had not demanded any money, but one relative has demanded the money for traveling to Nashik. On telephonic conversation / direction by Superintendent of Police Nanded, the complainant was called on 07.01.2025. His statement was recorded, wherein he has stated that Police Personnel from Police Station Nanded have not demanded money nor it was paid.

5. I have heard Shri Sachin Deshmukh, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities. Both the parties have submitted as per their respective contentions.

6. Learned counsel for the applicant has submitted that the complaint application was filed by one Shivaji Shinde on 06.01.2025 to Dy. Inspector General of Police, Nanded. But the order was passed by DIG on 10.01.2025 and the said application

seems to have been received by his office on 13.01.2025. According to him on that basis the enquiry was conducted. During that enquiry, complainant Shivaji has stated on 07.01.2025 that the Police Personnel have not demanded money and one of middle man / relative has demanded the money to bear expenses of travelling. Similar type of statement was made by Devidas Nagorao Tidke and Vishnudas Prakash Fatekar i.e. son-in-law of complainant Shivaji. So the concerned authority has misused the powers while issuing the order of suspension of the applicant and that too waiting for the report of preliminary enquiry. Learned counsel has also relied on the decision of Hon'ble Supreme Court in a case of **Union of India and Another Vs. Ashok Kumar Aggarwal, (2013) 16 Supreme Court Cases 147** and the judgment of this Tribunal in a case of **Dr. Suryakant Arjunrao Sable Vs. The State of Maharashtra and Ors.**, dated 05.10.2023. It is submitted that the suspension order was unwarranted and the said order is passed without having any material.

So far as objection of the respondents regarding remedy of filing appeal against the suspension order is concerned, learned counsel for the applicant has submitted that since the case of the applicant is in respect of victimization, the

applicant can approach this Tribunal without filing an appeal. For that purpose, he has relied on the decision of Hon'ble High Court Bombay in a case of **the State of Maharashtra Vs. Dr. Subhash Dhondiram Mane in W.P. No. 9660/2014.**

Learned Presenting Officer has submitted that under Section 27 of Maharashtra Police Act, alternate remedy is available to the applicant to prefer an appeal against the order of suspension and unless the said remedy is exhausted, this Original Application is not maintainable. According to him, facts in the judgments referred by the applicant are different and the same cannot be made applicable to the case of the applicant. According to him, on the basis of instructions of superior, the Police Inspector of Police Station Nanded (Rural) has forwarded enquiry report dated 08.01.2025 (Annexure R-1, page No. 69 of paper book). According to him, there is strong prima-facie material to show demand of money by the applicant from complainant Shivaji. The intention behind the suspension is to conduct the enquiry freely and there is no scope for influence.

7. I have considered the submission of both the parties. I have perused the documents. The impugned order of suspension dated 13.01.2025 (Exhibit A-1, page No. 13 of paper

book) itself shows that the applicant is placed under suspension in contemplation of Departmental Enquiry. It is mentioned in the said order that the complaint was filed by one Shivaji and for registration of crime, money was demanded by the applicant. It was alleged that the complainant Shivaji has filed complaint that his daughter eloped with her friend and for her search, demand of money was made. It is also alleged that amount of Rs. 80,000/- was accepted.

It is quite evident that the respondent authority has utilized powers under Rule 4(1)(a) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979, which reads as under :-

“4. Suspension .-(1) The appointing authority or any authority to which the appointing authority is subordinate or the disciplinary authority or any other authority empowered in the behalf by the Governor by general or special order may place a Government servant under suspension-

(a) where a disciplinary proceeding against him is contemplated or is pending, or”

Plain reading of these provisions shows that if Departmental Enquiry is pending or contemplated against the Government employee, he may be suspended by the competent authority under the aforesaid Rule during pendency of enquiry.

Considering the submissions, it is to be seen as to whether the applicant was victimized or whether the impugned order of suspension was unwarranted as submitted by learned counsel for the applicant.

8. Learned counsel for the applicant has relied on the decision of this Tribunal in a case of **Dr. Suryakant Arjunrao Sable** (cited supra), in which there is a reference of judgment of Principal Seat of this Tribunal at Mumbai in O.A. No. 336/2018. The Tribunal has culled out the following principles after having considered the judgments of Hon'ble Apex Court, which is as under :-

“(i) The power to suspend the employee and to institute the disciplinary proceedings against an erring employee on charge of misconduct lies solely within the province of employer/State.

(ii) The order of suspension is required to be passed after taking into consideration the gravity of misconduct sought to be enquired into bearing in mind whether it is expedient to keep an employee under suspension pending the departmental action and it should not be as an administrative routine matter. The employer/State is required to consider the nature of the charges, the surrounding circumstances of the matter and the impact on the discipline in the establishment.

(iii) The power of suspension should not be exercised in an arbitrary manner or/and without any reasonable ground or as vindictive misuse of power.

(iv) Suspension can be made in case where there is strong prima-facie case against an employee and the allegations are grave and serious.

(v) The fact of each case have to be taken into consideration for deciding whether the suspension is warranted or legal and no strait-jacket formula can be laid down in this regard.

(vi) The power of judicial review should not be exercised unless the decision of suspension is illogical or suffers from procedural impropriety or it shocks the conscience of the Court.

(vii) Where the Court or Tribunal is satisfied that there is abuse or misuse of power, then it is incumbent to interfere with the order of suspension.”

9. Learned counsel for the applicant has invited my attention to the dates of complaint (page No. 21 of paper book) of Shivaji, whose daughter is eloped with her friend. The date of application is dated 06.01.2025. It is submitted that DIG has passed the order of placing the applicant under suspension on 10.01.2025 and the application is shown to have been received by mentioning inward register on 13.01.2025. Learned counsel has invited my attention to the another application moved by complainant Shivaji dated 07.01.2025 to the Superintendent of Police, Nanded, wherein he has specifically mentioned that on 06.01.2025 he had filed compliant application about demand of money by Policeman at Police Station Nanded Rural. He has also referred enquiry report (page No. 19 of paper book), which shows that the report was submitted by Police Inspector, Police Station Nanded Rural on the basis of telephonic conversation / direction regarding the said complaint. This report is of 08.01.2025. Considering these facts, at this stage, it would be difficult to

jump to the conclusion that the allegation of demand of money is doubtful merely because the date of application and date of inward in the office are different. The remark of DIG also shows that the preliminary enquiry is to be conducted by SDPO, Itwara and role of PI is also to be enquired into. It appears that the said report is submitted by Police Inspector Omkant Chincholkar.

10. There is reference of Police Inspector Chincholkar in the complaint application dated 06.01.2025 (page No. 21 of paper book). It is mentioned in the complaint application of Shivaji that his daughter viz. Manisha and son-in-law viz. Vishnudas got married on 22.12.2024. They went to Nashik for visiting temples on 04.01.2025. His daughter eloped with her friend from Nashik, in respect of which missing report was lodged at Panchavati Police Station Nashik. In connection with it complainant Shivaji met to Police Inspector Chincholkar, who advise him to lodge report and accordingly met present applicant. It is mentioned that he went to Police Station and met the present applicant and the applicant demanded Rs. 2,000,00/- to take search of his daughter. Actually the amount of Rs. 50000/- was paid by the complainant and one relative Namdeo Gire has paid Rs. 30,000/- to the Police Constable who is present with the present applicant.

It appears from the contents in para No. 7 of affidavit in reply of respondent No. 4 that on the basis of telephonic conversation/direction, the respondent No. 4 has called the complainant Shivaji on 07.01.2025 to the Police Station. On that day, the statement of complainant Shivaji (page No. 16 of paper book) was recorded.

Learned counsel for the applicant has invited my attention to the contentions in statement of complainant Shivaji (page No. 16 of paper book) and submitted that one middle man / relative of complainant has demanded money for bearing expenses of travelling and Police Personnel have not demanded the money. Secondly, that middle man / relative has also returned that amount. Remark of DIG, Nanded on complaint application itself shows that the superior authority wanted to verify the role of Police Inspector also. Mr. Chincholkar, Police Inspector has recorded the statement of complainant Shivaji on 07.01.2025. This statement clearly shows about filing of complaint on 06.01.2025 about demand of money by Police personnel. It is significant to note that the complainant Shivaji is agriculturist. On 06.01.2025 he has specifically lodged complaint about demand of cash amount by the present applicant for taking search of his daughter, who eloped with her

friend, or for taking necessary action. But immediately on the next day i.e. on 07.01.2025 the complainant Shivaji has submitted that Police Personnel have not demanded any amount. But there is consistency in respect of filing complaint in respect of demand of money by Police Personnel. His statement was recorded by the Police Inspector, Police Station Nanded Rural on 07.01.2025. But considering the discussions above, it will be difficult to accept at this stage that this statement on 07.01.2025 of complainant Shivaji is voluntarily. It is pertinent to note that statement of one Namdeo, who was with complainant Shivaji on 06.1.2025, is not recorded by Police Inspector Mr. Chincholkar.

Secondly, report is already lodged at Police Station Nanded Rural with allegation that complainant's daughter eloped with her friend along with gold ornaments. It appears from the enquiry report dated 08.01.2025 (page No. 19 of paper book) that the said offence is under investigation. Another thing is to be noted that there is remark on complaint application dated 06.01.2025 that the Departmental Enquiry is to be conducted by SDPO Itwara.

Affidavit in reply of respondent Nos. 2 and 3 shows that the conclusions of enquiry officer are forwarded to

respondent No. 2 i.e. the Dy. Inspector General, Nanded on 04.02.2025. So this aspect is already under consideration of the competent authority.

11. For the reasons discussed in foregoing paragraphs, it would be difficult at this stage to conclude that the applicant is victimized and in absence of material, he is placed under suspension. Therefore, the decision of Hon'ble High Court relied upon by learned counsel for the applicant in a case of **Union of India and Another Vs. Ashok Kumar Aggarwal** (cited supra) is not applicable to the case of the applicant. It also cannot be ignored that immediate after three days of impugned order of suspension, the present applicant rushed to the Tribunal. The competent authority may take necessary decision including that of revocation of suspension, if any as per the relevant provisions of law.

12. Learned Presenting Officer has submitted that the remedy is also provided to the applicant to file an appeal against the order of suspension in view of the provisions of Section 27 of Maharashtra Police Act. Learned P.O. submits that the applicant has not exhausted the remedy of filing appeal against the order of suspension. Section 27 of Maharashtra Police Act says that

an appeal against the order passed under Section 25 or the Rules or orders thereunder shall lie to the State Government itself or to such officer as the State Government may by general or special order specify. So the provisions of Section 25 of the Maharashtra Police Act are also to be looked into. It appears that it is the order of suspension in contemplation of enquiry and the said impugned order of suspension is not the penalty. In view of proviso to Section 25(1) of the Maharashtra Police Act, it cannot be said that there is substance in the submissions of learned Presenting Officer.

13. The discussions in foregoing paragraphs lead me to say that there is no reason to interfere with the impugned order of suspension dated 13.01.2025. Therefore, the present Original Application deserves to be dismissed. Hence, the following order:-

ORDER

The Original Application stands dismissed. There shall be no order as to costs.

(A.N. Karmarkar)
Member (J)

PLACE : Aurangabad
DATE : 07.03.2025