

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

ORIGINAL APPLICATION NO.249 OF 2017

DISTRICT : NASHIK

Mr. Ashok Namdevrao Gaikwad.)
Age : 56 Yrs, Occu.: Sub Registrar)
Class I, R/at : New Hanuman Nagar,)
Galli No.3, Gargheda Area, Aurangabad.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through the Secretary,)
Revenue & Forest Department,)
Mantralaya, Mumbai - 400 032.)
2. The Inspector General of Registrar &)
Controller of Stamps, New)
Administrative Building, Ground)
Floor, Opp. Council Hall, MS, Pune.)...**Respondents**

Mr. K.R. Jagdale, Advocate for Applicant.

Mrs. A.B. Kololgi, Presenting Officer for Respondents.

P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 25.04.2017



JUDGMENT

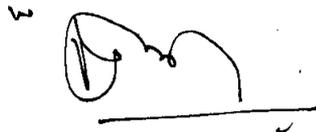
1. This Original Application (OA) is brought by a suspended Sub Registrar Class I at Sinnar who came to be suspended by the order of 16.12.2015.
2. I have perused the record and proceedings and heard Mr. K.R. Jagdale, the learned Advocate for the Applicant and Mrs. A.B. Kololgi, the learned Presenting Officer (PO) for the Respondents.
3. In view the course of action that is going to be adopted herein, a very detailed statement of facts, is really not necessary. It would be suffice to mention that a complaint came to be lodged with the Anti Corruption Bureau on 26.11.2015 wherein the present Applicant has been shown as Accused No.2. In the body of the complaint, there does not appear to be any allegation made against him, but in the concluding Paragraph, there are allegations that a private individual was masquerading as Government Officer and his activities were abetted and facilitated by the Applicant. I express absolutely no opinion nor am I called upon to do so, in so far as the truism or otherwise of the said allegations are concerned.



4. It is a common ground that the Applicant came to be placed under suspension way back in December, 2015, but his case has not been placed before the concerned Suspension Review Committee. These averments are made by the Applicant in Paras 7.6 and 7.7 in which, the Applicant has also relied upon a G.R. dated 14.10.2011 and another G.R. of 31.1.2015. These averments are traversed in Para 21 of the Affidavit-in-reply and this is what has been mentioned therein.

“21. With reference to Paras 7.6 to 7.8, it is submitted that the committee constituted to review the suspension of Government employee could not consider the present case as the conditions precedent are not fulfilled in this case as per GR mentioned in this para. Hence the proposal is not submitted to the Review Committee.”

5. It is not at all clear as to in what manner, the condition precedents of the said G.Rs were not fulfilled. It would be suffice to mention that these GRs require the matter of the suspension of the employees like the present one to be placed before the said Committee within three months and then, there are detailed instructions

A handwritten signature in black ink, consisting of a stylized 'B' followed by a flourish, positioned above a horizontal line.

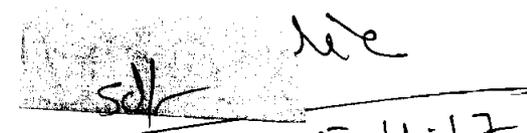
thereabout which it may not be necessary to be gone into. It also needs to be mentioned that, apart from these two GRs, there are several Judgments of the Hon'ble Constitutional Courts including the one in the matter of **State of Maharashtra & Ors. Vs. Shivram S. Sadawarte : 2001 (3) Mh.L.J. 249** in which Para 14(c) mandate that such case must be placed before the Committee quarterly. I am, therefore, completely unimpressed by the cause assigned for having not placed the matter before the Committee. The Applicant is justifiably aggrieved thereby. Necessary directions will have to be given.

6. Mrs. A.B. Kololgi, the learned PO then questioned the very tenability of this OA because the Applicant has not preferred an appeal against the order of suspension. It is no doubt true that under Rule 17 of the Maharashtra Civil Services (D & A) Rules, 1979 makes the orders of suspension appealable. However, not much really needs to be said in this behalf because the Hon'ble Bombay High Court in the matter of **Writ Petition No. 9660/2014 (The State of Maharashtra Vs. Dr. Subhash D. Mane (DB), dated 1st December, 2014** of which Para 20 needs to be read attentively the absence of appeal is not a matter of jurisdiction, and therefore, it is not even a lacuna in that sense, much less a fatal one. I reject the objection in that behalf and proceed further.



7. Before concluding, it needs to be mentioned that even the FIR has been challenged before the Hon'ble High Court by way of **Criminal Writ Petition No.742/2016 (Ashok N. Gaikwad Vs. Senior Inspector of Police)**. A Division Bench of the Hon'ble High Court by its order of 28th April, 2016 while allowing the investigation to continue, directed that the final report qua the Applicant only, "shall not be filed until further orders passed by this Court". This fact will have to be borne in mind as the case of the Applicant with regard to his suspension is considered by the Respondents.

8. The Respondent No.2 is hereby directed to place the matter of the Applicant before the concerned Suspension Review Committee within a period of four weeks from today and communicate to the Applicant the outcome thereof within one week thereafter. The Original Application is allowed in these terms with no order as to costs. Hamdast.


 (R.B. Malik)
 Member-J
 25.04.2017

Mumbai
 Date : 25.04.2017
 Dictation taken by :
 S.K. Wamanse.