

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 517/2024 (S.B.)**

Parmeshwar S/o Pandurang Gadgil,  
Aged about 32 years,  
Occ. Service (At present under suspension),  
R/o Pushpak Colony,  
Sai Nagar, Amravati.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Through it's Secretary,  
Urban Development Department,  
Mantralaya, Mumbai- 400 032.
- 2) The Director, Town Planning,  
Maharashtra State Pune,  
Central Building, Ground Floor,  
Pune – 411 001.

**Respondents**

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**Shri S.P.Palshikar, Id. Advocate for the applicant.**

**Shri A.M.Khadatkar, Id. P.O. for the respondents.**

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**Coram :- Hon'ble Shri M.A.Lovekar, Member (J).**

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**JUDGMENT**

**Judgment is reserved on 23<sup>rd</sup> Aug., 2024.**

**Judgment is pronounced on 05<sup>th</sup> Sept., 2024.**

Heard Shri S.P.Palshikar, Id. counsel for the applicant and  
Shri A.M.Khadatkar, Id. P.O. for the Respondents.

2. After laying the trap, A.C.B. trapped and arrested the applicant, a Planning Assistant working in the respondent department, on 12.09.2023. An offence was registered against him under Section 7 of the Prevention of Corruption Act. He was in Police custody for more than 48 hours. Respondent no. 2, by order dated 17.11.2023 (A-2) placed him under suspension w.e.f. 12.09.2023. Period of 90 days of suspension came to an end on 12.12.2023. Till 12.12.2023 the applicant was not served with a chargesheet. According to the applicant, under such circumstances further suspension of the applicant cannot be sustained in view of ruling of Hon'ble Supreme Court in **Ajay Kumar Choudhary Vs. Union of India & Another (2015) 7 SCC 291**. Hence, this Original Application.

3. Ld. P.O. has today placed on record communication dated 09.08.2024 as per which chargesheet is served on the applicant on 26.07.2024 and proposal to reinstate him is forwarded to respondent no. 1:-

*The applicant has relied on Ajay Kumar Choudhary Vs. Union of India and Another (2015) 7 SCC 291. Based on this ruling G.R. dated 09.07.2019 is issued by G.A.D., Government of Maharashtra which reads as under –*

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. 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 कर्मचाऱ्यांना ९० दिवसांच्या मुदतीत दोषारोप पत्र बजावून त्यांच्या निलंबनाच्या आढाव्या संदर्भातील तरतुदी सुधारण्याची बाब शासनाच्या विचाराधीन होती.

### शासन निर्णय :-

१. या अनुषंगाने शासकीय कर्मचाऱ्याच्या 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 प्राधिकाऱ्याच्या 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 कापेकोरपणे 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.

4. In view of aforementioned legal and factual position continuation of order of suspension passed against the applicant cannot be sustained. Hence, the order:-

## **O R D E R**

The O.A. is allowed in the following terms:-

The respondents are directed to revoke order of suspension of the applicant and reinstate him within 30 days from today. No order as to costs.

**Member (J)**

**Dated :- 05/09/2024**  
aps

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 05/09/2024  
and pronounced on

Uploaded on : 06/09/2024