

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

ORIGINAL APPLICATION NO. 1079 OF 2025

DISTRICT : JALGAON

Rajkiran Dipak Sonawane,)

Age : 34 years, Occu. : Service as Sub-Inspector,))

State Excise, Bhusaval, Bit No. 2, District)

Jalgaon (At present Suspended),)

R/o At Present Gunjan Niwas, Bharadi Road,))

Anand Park, Sillod, Tq. Sillod, Dist. Chh.)

Sambhajinagar.)

.... **APPLICANT**

V E R S U S

01. **The State of Maharashtra,**)
The Secretary, State Excise Department,))
Mantralaya, Mumbai-32.)

02. **The Commissioner,**)
State Excise, Maharashtra State,)
Mumbai, State Excise Bhavan,)
Plot No. 1450, Mahanagarpalika)
Sabhagruh Marg, Fort, Mumbai-400001.)

03. **The Superintendent,**)
State Excise, Jalgaon, Opp. State Bank)
Of India Main Branch, Jilha Peth, Jalgaon.)

04. **The Divisional Commissioner,**)
(Revenue) Nashik Division, Central)
Building, Nashik Road, Nashik.)

... RESPONDENTS

APPEARANCE : Shri K.B. Jadhav, learned counsel for
Applicant.

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

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

DATE : **04.03.2026.**

O R A L - O R D E R

1. By filing present Original Application, the applicant has sought relief for quashing and setting aside impugned suspension order dated 03.12.2024 issued by respondent No. 2. The applicant has also prayed for direction to the respondents to revoke the suspension order dated 03.12.2024 and to reinstate him in service with all consequential benefits.

2. The applicant was appointed as Sub-Inspector, State Excise on 20.08.2018. While working on the post of Sub-Inspector, State Excise, Bhusaval, Bit No. 2, Dist. Jalgaon, on 23.11.2024 one false FIR came to be registered against the applicant and another on 23.11.2024 under Section 7(a) and 12 of the Prevention of Corruption Act, 1988 in the Faijpur Police Station, Dist. Jalgaon. Even after lapse of 90 days of suspension order, no charge sheet was served on the applicant for Departmental Enquiry. He has filed application dated 04.03.2025 to respondent No. 2 through respondent No. 3 for his reinstatement. On the same day i.e. on 04.03.2025, respondent

No. 2 issued charge-sheet in Departmental enquiry. Again on 07.04.2025, 08.05.2025, 02.07.2025 & 10.09.2025 the applicant has filed applications to respondent No. 2 for non-service of charge-sheet within a period of 90 days from the date of suspension. Respondent No. 4 issued letter to respondent No. 2 on 11.04.2025 directing them to submit detailed information of the applicant regarding review of suspension. The applicant continued to file application for revocation of suspension.

The impugned order of suspension is challenged on that ground that it is illegal and it is issued without application of mind. The respondent No. 2 has not considered that the applicant has implicated falsely. The impugned suspension order suffers from malice. The respondents have not followed the ratio laid down by the Hon'ble Supreme Court in a case of **Ajay Kumar Chaudhari Vs. Union of India & Anr., 2015 (7) Supreme Court 291** and the G.Rs. dated 09.07.2019 and 22.04.2025. Thus the applicant has prayed to allow the present Original Application.

3. Respondent Nos. 2 and 3 have filed their affidavit in reply (page No. 71 of paper book). According to them, the applicant has not availed the remedy of filing appeal against the

order of suspension under Rule 4 (4)(5) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979. It is settled that the Courts and Tribunal are to be slow in interfering in such order of suspension. According to them, the present Original Application is premature and misconceived. In view of judgment of **Ajay Kumar Choudhary** only periodic review is required and does not create automatic reinstatement after 90 days. According to them, the impugned suspension order is legally issued. It is alleged that co-accused found accepting bribe for this applicant. The applicant is not entitled for reinstatement, as the investigation of ACB and Department Enquiry are pending. FIR under Prevention of Corruption Act, 1988 was registered on the basis of successful ACB trap. All the allegations including that of mala-fides on the part of respondents are denied. Thus the respondents have prayed to reject the present Original Application.

4. The applicant has file rejoinder affidavit (page No.145 of paper book). He has reiterated the contentions as raised in the Original Application.

5. Initially, the legality of impugned suspension order dated 03.12.2024 was challenged. During pendency of the

present Original Application, learned counsel for the applicant has submitted, on instruction, that he is restricting his prayer only to the extent of prayer clause X(C) of O.A. pertaining to revocation of suspension of the applicant, since the respondents have not served charge-sheet within a period of 90 days from the date of suspension. Therefore, by consent of both the sides, the matter is taken up for final hearing.

6. I have heard Shri K.B. Jadhav, 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.

7. It is undisputed fact that the applicant was appointed on the post of Sub-Inspector, State Excise on 20.08.2018. It is undisputed fact that while working on the post of Sub-Inspector, State Excise, Bhusawal, Dist. Jalgaon, one FIR came to be registered against the applicant under the provisions of Sections 7(a) and 12 of the Prevention of Corruption Act, 1988. It is not disputed that the applicant was suspended vide impugned suspension order dated 03.12.2024 under Rule 4(1) of the Rules of 1979.

8. Learned counsel for the applicant has submitted that applicant was suspended on 03.12.2024. However, respondents have not filed charge-sheet or memorandum of charges within a period of 90 days from the date of suspension as held by the Hon'ble Supreme Court in a case of **Ajay Kumar Choudhari** (cited supra) and G.Rs. dated 09.07.2019 and 22.04.2025. Relevant paragraph of this judgment is reproduced in both the G.Rs. It is necessary to reproduce provisions of G.R. dated 09.07.2019 as under :-

“ 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 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 संदर्भात तरतुदी सुधारण्याची बाब शासनाच्या विचाराधीन होती.

शासन निर्णय:-

१. या अनुषंगाने शासकीय कर्मचाऱ्यांच्या निलंबनाचा आढावा घेण्यासंदर्भात पुढीलप्रमाणे सूचना देण्यात येत आहेत.

- i) निलंबित शासकीय सेवकांच्या ज्या प्रकरणी ३ महिन्यांच्या कालावधीत विभागीय चौकशी सुरू 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.”

Clause 1 (1)(A) of the G.R. dated 22.04.2025 is required to be reproduced as under:-

“अ) निलंबित शासकीय कर्मचाऱ्यांच्या ज्या प्रकरणी तीन महिन्यांच्या कालावधीत शिस्तभंगविषयक कार्यवाही अथवा न्यायिक कार्यवाही सुरू करण्यात आलेली नाही, अशा प्रकरणी निलंबन समाप्त करण्याशिवाय पर्याय राहत नाही.

ब) ज्या प्रकरणात निलंबनाच्या दिनांकापासून ३ महिन्यांच्या आत शिस्तभंगविषयक कार्यवाही अथवा न्यायिक कार्यवाही सुरु करण्यात आलेली असेल तेथे निलंबन पुढे चालू ठेवण्यासाठी करणमिमांसेसह आदेश निर्गमित करणे आवश्यक राहिल.

क)

शासन निर्णय

१. सर्वसाधारण सूचना -

१(अ) निलंबनाचा कालावधी

(i) निलंबित शासकीय कर्मचाऱ्याच्या ज्या प्रकरणी निलंबनाच्या दिनांकापासून तीन महिन्यांच्या कालावधीत त्याच्याविरुद्ध शिस्तभंगविषयक कार्यवाही अथवा न्यायिक कार्यवाही यापैकी कोणतीही कार्यवाही सुरु करण्यात आलेली नाही अशा प्रकरणी त्याचे निलंबन सदर तीन महिन्यांचा कालावधी संपल्यानंतर पुढे चालू ठेवता येणार नसल्यामुळे निलंबित शासकीय कर्मचाऱ्याविरुद्ध त्यांच्या निलंबनापासून तीन महिन्यांच्या कालावधीत शिस्तभंगविषयक कार्यवाही सुरु करण्याची दक्षता सक्षम प्राधिकाऱ्यांनी घ्यावी.

(ii) निलंबनाच्या दिनांकापासून तीन महिन्यांत विभागीय चौकशी/न्यायिक कार्यवाही सुरु केली नसल्यास, तीन महिन्यांचा कालावधी संपल्यानंतर निलंबन पुढे चालू ठेवता येणार नाही, सक्षम प्राधिकाऱ्याने अशा प्रकरणी कर्मचाऱ्यास पुनःस्थापित करण्याचा निर्णय घ्यावा.”

There is one note below clause 1(1)(A) of G.R. dated 22.04.2025. It says that the date on which the memorandum of charges are issued, is held to be the date of commencement of Departmental Enquiry.

9. Learned counsel for the applicant has also placed on record a copy of memorandum of charges, which were served upon the applicant. The applicant has received the said memorandum of charges on 17.03.2025. It seems that

memorandum of charges were issued for its service to the applicant through the Superintendent, State Excise, Jalgaon. It seems that the office of Superintendent, State Excise, Jalgaon received the same on 12.03.2025.

10. Even otherwise 90 days period from the date of suspension i.e. 03.12.2024 would come to an end on 03.03.2025. So it is difficult to accept that the memorandum of charges were issued within a period of 90 days from the date of suspension as held by the Hon'ble Supreme Court in a case of **Ajay Kumar Chaudhari** (cited supra).

11. Even if it is accepted for a moment that the memorandum of charges were issued within a period of 90 days from the date of suspension, still it was necessary on the part of respondents to show that the reasoned order for extension of suspension of the applicant was passed. Respondents could not show that the reasoned order was passed for extension of suspension of the applicant.

Learned counsel for the applicant has also placed on record one communication issued by the Tahsildar (Administration) Divisional Commissioner Office, Nashik to the Dy. Commissioner, State Excise, Mumbai, which is pertaining to

recommendation of suspension review committee dated 22.12.2025. It appears that the communication of Dy. Commissioner of State Excise, Mumbai was also considered. It is just recommended by the committee that the competent authority shall take appropriate decision in respect of reinstatement of the applicant in view of clause 9(9)(3)(ii) of the G.R. dated 22.04.2025 and on the basis of judgment of Hon'ble Supreme Court in a case of **Ajay Kumar Chaudhari** (cited supra). It does not reveal that the said committee has expressed opinion about need to extend the suspension of applicant with grounds.

12. In view of the discussions in foregoing paragraphs and particularly in view of the judgment of Hon'ble Supreme Court in a case of **Ajay Kumar Choudhari Vs. Union of India & Anr.** reported in **AIR 2015 SC 2389** , the present Original Application deserves to be allowed. Hence, the following order :-

ORDER

- (i) Respondents to revoke the suspension order of applicant dated 03.12.2024 issued by respondent No.2 within a period of three weeks from the date of receipt of this order.

- (ii) Respondents to issue consequential order of reinstatement etc. of the applicant within a period of three weeks from the date of receipt of this order as per the rules.
- (iii) The Original Application is allowed in above noted terms. There shall be no order as to costs.

(Ashutosh N. Karmarkar)
Member (J)

PLACE : Aurangabad

DATE : 04.03.2026

KPB S.B. O.A. No. 1079 of 2026 ANK Suspension