

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10576 OF 2018

Prashant Kishanrao Padghan

..PETITIONER

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....
Mr. A.S. Deshmukh, Advocate for petitioner.
Mr. V.S. Badakh, A.G.P. for respondents.
....

**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.**

DATED : 26th OCTOBER, 2018

ORDER :

The petitioner assails the order of suspension dated 07th February, 2018. An offence is registered against the petitioner at Police Station Vaijapur (Rural), Dist. Aurangabad for the offences under Sections 7, 12, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 on 11th September, 2014. On 09th August, 2017, charge-sheet came to be filed in the Court of Special Judge, Vaijapur against the petitioner and co-accused – Dilipsinh Lakshmansinh Pawar. On 07th February, 2018 the petitioner is placed under suspension. The petitioner challenged the order of suspension before the Maharashtra Administrative

Tribunal by Original Application no. 111 of 2018. The Tribunal rejected the original application vide order dated 28th August, 2018.

2. Mr. Deshmukh, the learned Counsel for the petitioner submits that for almost three and half years the petitioner was not suspended, though, crime was registered against the petitioner. Departmental Enquiry was initiated against the petitioner at Aurangabad, however same is pending and it is at initial stage. According to the learned Counsel, co-accused was suspended on 29th October, 2014 and his suspension is revoked on 17th October, 2017 after the charge-sheet is filed. There was no propriety in suspending the petitioner. The review of the suspension was taken by the committee, but same was negatived.

3. The learned A.G.P. submits that the Departmental Enquiry is pending. The petitioner is suspended during Departmental Enquiry. Criminal case is also pending against the petitioner. The petitioner has claimed parity with regard to revocation of suspension of the co-accused, but the co-accused was under suspension for almost three years.

4. We have considered the submissions of the learned Counsel for the parties. It is not disputed that alongwith the petitioner, Dilipsinh

Laxmansinh Pawar is also co-accused in criminal case and Departmental Enquiry is also initiated against him. It is also not disputed that the petitioner was not suspended till 07th February, 2018, whereas the co-accused was suspended in the year 2014 and his suspension was revoked in October 2017. After the revocation of suspension of co-accused, the petitioner is suspended on 07th February, 2018. More than six months have lapsed. The enquiry is initiated in the year 2018 after filing the charge-sheet in the criminal case. Considering that the suspension of co-accused has already been revoked, there would be no propriety in keeping the petitioner under suspension. So as to enable free and fair enquiry, the respondents shall post the petitioner outside Aurangabad District on non-administrative post.

5. In light of the above, suspension is revoked with further observation that the respondents shall post the petitioner outside Aurangabad District on non-administrative post till completion of the enquiry. Posting be given to the petitioner, as observed above, within a period of four weeks from today. Writ petition is disposed of. No costs.

(R.G. AVACHAT, J.)

(S.V. GANGAPURWALA, J.)

SSD