

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12178 OF 2016

The State of Maharashtra and others ... Petitioners
Versus
Pranav Raghunath Mudgal ... Respondent

Mr. N. C. Walimbe, AGP for the Petitioners.
Mr. Sandeep S. Salunkhe for the Respondent.

CORAM : A. S. OKA AND M. S. SONAK, JJ.

DATE : 11th SEPTEMBER, 2018.

P. C.:

1. Heard learned Counsel for the parties.
2. By the impugned order passed in the Original Application filed by the respondent, the Maharashtra Administrative Tribunal (MAT) has proceeded to set aside the order dated 4th March, 2015 of suspension of the respondent. At the time of passing of the order dated 4th March, 2015, the respondent was holding the post of Assistant Engineer Grade-I, Group-A post in Water Resources Department. The order was passed by the District Collector by exercising the purported powers conferred upon him by the Government Resolution dated 3rd December, 2014. The said

Government Resolution notes the fact that considering less rain fall in certain districts, a situation is created under which several steps are required to be taken for dealing with scarcity. Considering the fact that several steps are required to be taken by the said Government Resolution, the Collector has been appointed as the Head of the Department in the District.

3. Rule 4 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 confers power of suspension of a Government servant. Rule 4 reads thus:

“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 this behalf by the Governor by general or special order may place a Government servant under suspension”

4. The question before the Tribunal was whether the Collector will fall in one of the four categories mentioned in Sub Rule (1) of Rule 4, who are empowered to pass an order of suspension.

5. The learned AGP submitted that in view of the Government Resolution dated 3rd December, 2014 the Collector had become

the Head of the Department of all the concerned departments. Considering the nature of behaviour of the respondent, the Collector has passed an order of suspension with which no interference was called for. The learned AGP contends that the Government has approved the suspension of the respondent.

6. Under Sub Rule (1) of Rule 4, following officers are empowered to exercise power of suspending the Government servant.

- (a) the appointing authority;
- (b) any authority to which the appointing authority is subordinate;
- (c) the disciplinary authority;
- (d) any other authority empowered in this behalf by the Governor by general or special order

7. Admittedly, the Collector is neither the appointing authority nor the Disciplinary Authority. Admittedly, the appointing authority for Group-A post is the State Government and therefore, the Collector is sub-ordinate to the appointing authority. The Tribunal has recorded a finding that on plain reading of the Government Resolution dated 3rd December, 2014, the Collector does not become disciplinary authority. Taking the Government Resolution as it is, there is nothing mentioned therein to show

that the Collector was empowered to suspend a Group -A employee by the Governor by a general or a special order. No such order has been produced on record. Assuming that the order of the Collector is approved by the Government, this fact is of no relevance in as much as the State Government has not passed the order of suspension. Therefore, the finding of the Tribunal is that the Collector had no authority to pass order of suspension. We find no error in the said finding. The writ petition is rejected.

(M. S. SONAK, J.)

(A. S. OKA, J.)