

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

15 WRIT PETITION NO.6119 OF 2018

**DILIPKUMAR BABURAO YALAMWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

**Advocate for Petitioner : Gastgar Santosh B.
AGP for Respondents: K.B.Jadhavar
Adv.U.B.Bondar for R.3.
Adv.S.D.Tawshikar for R.4 & 5.**

**CORAM : S.V.GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATE : 26/06/2019

PER COURT :

Mr.Gastgar, learned advocate submits that the petitioner is placed under suspension under order dated 4/3/2016 w.e.f. 29/7/2015. According to the learned advocate same is illegal.

2] Mr.Tawshikar, learned advocate submits that petitioner was in custody in the criminal case filed against him for more than 48 hours. The criminal case is still pending, as such he is rightly placed under suspension. He further submits that the petitioner was absent from duty for more than a year before suspension and said fact is admitted by him in his application.

3] As per the rules, the petitioner would be deemed to be under suspension for the period the petitioner was in custody. At present no departmental proceedings are initiated against the petitioner. Only on the ground that criminal case is filed keeping the petitioner under

suspension would be on no avail.

4] The respondent management is not precluded from initiating Departmental Enquiry if according to it, the petitioner is guilty of misconduct. However, without initiating any inquiry the petitioner cannot be kept under suspension for such a long period.

5] In light of the above, the suspension of the petitioner stands revoked.

6] Writ Petition is accordingly allowed. No costs.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

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