

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 4972 of 2021

Vivek S/o Gadadharrao Wankhade
Aged about 49 years, Occu : Agriculturist,
R/o At Post Kawathal, Tq. Morshi,
Distt. Amravati. Mobile : 9421926090

.... Petitioner

.. Versus ..

(1) Additional Commissioner,
Amravati Division, Amravati.

(2) Swapnil S/o Sudhakar Pathare,
Aged about 40 years, Occu : Police Patil,
R/o At Post Kawathal, Tq. Morshi,
Distt. Amravati.

.... Respondents

Smt. S. W. Deshpande, Advocate for petitioner.
Shri. D. P. Thakare, Addl. Government Pleader for respondent 1
Mr. P. A. Kadu, Advocate for respondent 2

CORAM : ROHIT B. DEO, J.
DATED : 10-1-2022

ORAL JUDGMENT

Rule. Rule made returnable forthwith.

2. With the consent of learned counsel appearing for the parties, the petition is heard finally at the admission stage.

3. The petitioner claims to be the person on whose complaints, respondent 2 came to be suspended as Police Patil.

4. It is common ground that the order of suspension dated 4-8-2020 is punitive order and not an order pending inquiry. In this view of the matter, the suspension could have operated for twelve months.

5. The Additional Commissioner has allowed the appeal prepared by the Police Patil reasoning that on date, the period of twelve months has expired. Although the Commissioner did note that the suspension order was stayed on 4-8-2020, the Commissioner has not appreciated the implication of the stay. In this view of the matter, the Additional Commissioner does not appear to have decided the appeal on merits. The Authority was influenced by the passage of time. No benefit can be given to a person, of an interim order. The authority ought to have decided the appeal on its own merits instead of disposing the appeal on the ground that the maximum period of suspension is over.

6. The learned counsel for the Police Patil has a submission to canvass which does appear to be of some substance and that is the petitioner has no locus as such.

7. However, no positive observation need be made on this submission since the order impugned is clearly illegal and in exercise of writ jurisdiction, I feel impelled to set the wrong right.

8. The order impugned is set aside.

9. The Additional Commissioner shall hear the appeal afresh on merits and decide the same within the next sixty days.

10. Till then, the interim order which was operating in appeal shall continue to operate.

11. The petition is disposed of in the aforestated terms.

12. The petitioner shall appear before the learned Additional Commissioner on 17-1-2022 and bring this order to the notice of the authority.

JUDGE

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