

**HIGH COURT OF MADHYA PRADESH PRINCIPAL SEAT  
AT JABALPUR**

**(Division Bench: Hon'ble Shri Justice S.K. Gangele &  
Hon'ble Shri Justice Sanjay Yadav)**

**W.P. No. 438/2015.**

Ashok Mishra  
Versus  
State of M.P. and another

**W.P. No. 20006/2014.**

Ashok Mishra  
Versus  
State of M.P. and another

Shri A.P. Shrotri learned counsel for the petitioner.  
Shri Deepak Awasthy, learned Government Advocate for the respondents/State.  
Shri Pankaj Dubey, learned counsel for the Special Police Establishment Lokayukta.  
Shri Piyush Bhatnagar, learned counsel for the intervener.

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**ORDER**  
**(28/10/2015)**

**Per S.K. Gangele J**

Grievance of the petitioner in these two petitions is against the order of suspension. The petition W.P. No. 438/2015 has been filed against the order of suspension dated 05/01/2015 and W.P. No. 20006/2014 has been filed against the letter dated 24/11/2014. By the aforesaid letter, the Inspector General of Police, Special Police Establishment Lokayukta requested the Principal Secretary of the Department to place the petitioner under suspension. Both the petitions were tagged together and are being decided by this common order.

2. The petitioner was posted as Dy. Registrar Co-operative Societies, Bhopal. Complainant Smt. Mevabai and 8 other persons on 08/08/2007 submitted a complaint before the Lokayukta Organization under prescribed form to the effect that with the connivance of the officers of District Cooperative Agriculture Department Rural Bank, Bhopal and the petitioner, lands of 141 agriculturists who had taken loan from the bank were sold in auction without following procedure. There were number of illegalities committed in the auction proceedings. After preliminary inquiry a case vide crime no. 85/2010 was registered by the Lokayukta Organization against the petitioner and other employees of the cooperative bank. The Organization conducted a detailed inquiry and registered an offence punishable under Sections 13(1)(d) and 13(2) of Prevention of Corruption Act, 1988 Sections 420, 467, 468, 471 and 120-B /34 of the IPC against the petitioner and other persons. The State Government accorded sanction to prosecute the petitioner for the aforesaid offences. Thereafter, charge-sheet was filed by the organization against the petitioner and other persons for commission of offences punishable under Sections 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988 along with Sections 420, 467, 468, 471 and 120-B/34 of the IPC. When the petitioner was not placed under Suspension, the Inspector General of Police, Lokayukta Organization vide letter dated 24/11/2014 requested the disciplinary authority i.e. Principal Secretary Co-

operative Society M.P. Bhopal to place the petitioner under suspension because the charge-sheet was filed against the petitioner on 14/11/2013 after getting permission from the government on 07/10/2013 in accordance with provision of M.P. Civil Services (Classification Control and Appeal) Rules, 1966 (herein after called as Rules of 1966).

3. The department vide order dated 05/1/2015 placed the petitioner under suspension in exercise of powers under Rule 9(1) of Rules of 1966. It is mentioned in the order that a charge sheet has been filed against the petitioner in regard to commission of offences punishable under the prevention of corruption act before the competent court of jurisdiction, hence, the petitioner is placed under suspension.

4. Learned counsel for the petitioner has contended that the order of suspension dated 05/01/2015 has been passed on dictation by Inspector General of Police Lokayukta, hence, it is mala fide and against the law. It is further contended by the counsel that it is the duty of the disciplinary authority to apply its mind independently while considering the facts and circumstances of the case to the effect that whether the petitioner is to be placed under suspension or not. Learned counsel further contended that it is not mandatory to place an employee under suspension if the charge-sheet has been filed against a government employee for commission of offences punishable under the provisions of Corruption Act. In support of his contentions learned counsel relied on the judgment of this

court in the case of **Suresh Kumar Purohit vs. State of M.P. and another, 2005(4)M.P.L.J. 524.**

5. Contrary to this learned Government Advocate has contended that the order of suspension passed by the department is in accordance with law. It is further contended by the counsel that rule 9(1) of Rules 1966 mandates that after filing charge-sheet if the offence is in regard to involvement of moral turpitude or corruption then the disciplinary authority has to place the employee under suspension. The disciplinary authority has no discretion in regard to placing an employee under suspension, if the charge-sheet against a government employee is filed before the competent court of jurisdiction for commission of offences involving corruption. In support of his contentions, learned counsel relied upon the judgment of Division Bench of this Court passed in **A.P. Singh Gaharwar Vs. State of M.P. and others 2012 (4) M.P.H.T. 189.**

6. It is an admitted fact that charge-sheet has been filed before the competent court of jurisdiction against the petitioner for commission of offences punishable under Sections 13(1) (d) and 13(2) of the Prevention of Corruption Act, 1988 along with Sections 420, 467, 468, 471 and 120-B/34 of the IPC after obtaining sanction from the government. Division Bench of this Court in **A.P. Singh Gaharwar Vs. State of M.P. and others 2012 (4) M.P.H.T. 189** after deliberating in detail on the question has held that an employee has to be placed under suspension if the charge-sheet has been filed against

him for commission of offences punishable under the provisions of prevention of corruption Act. The disciplinary authority has no discretion in the matter and Rule 9(1) of the rule 1966 mandates that an employee compulsorily be placed under suspension. The relevant findings of the division bench are as under:-

“20. In view of the fact that the appellant is required to be placed under suspension in accordance with the provision of the proviso to Rule 9(1) of the Rules of 1966 and the authority has no discretion in the matter, the other issues raised by the appellant regarding veracity of the charges levelled against him, etc., need not be looked into by us as no useful purpose shall be served in doing so. Quite apart from the above, the Supreme Court in the case of [U.P. Rajya Krishi Utpadan Mandi Parishad and others vs. Sanjiv Rajan](#), 1993 Supp. (3) SCC 483 and this Court in the case of [Deepa Dubey \(Mrs.\) vs. Union of India](#), 2010 (4) MPHT 191, have also stated that while dealing with cases of suspension, the Courts are not required to look into the correctness or authenticity of the charges levelled against a Government Servant.”

We are in agreement with the findings recorded by the Division Bench. Learned counsel relied upon a decision of the Single Bench of this Court reported in the case of **Suresh Kumar Purohit vs. State of M.P. and another**, **2005(4)M.P.L.J. 524** and contended that in accordance with the aforesaid judgment the suspension of a government servant is not mandatory even if charge-sheet has been filed against the employee for commission of offence in regard to corruption punishable under the provisions of Prevention of Corruption Act and the disciplinary authority has to apply its mind in recording satisfaction before placing an employee

under suspension. We are not in agreement with the arguments advanced by learned counsel. Provision of rule 9(1) of rule 1966 reads as under:-

"9(1) The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the Governor by general or special order, may place a Government servant under suspension--

- (a) where a disciplinary proceeding against him is contemplated or is pending, or
- (b) where a case against him in respect of any criminal offence is under investigation, inquiry or trial;

[Provided that a Government Servant shall invariably be placed under suspension when a challan for a criminal offence involving corruption or other moral turpitude is filed after sanction of prosecution by the Government against him;].

Division Bench has considered in detail meaning of word invariably and held that invariably means always. The Division Bench has also quoted the Hindi version of the Rules which reads as under:-

४. परन्तुक शासकीय सेवक को सदैव निलंबित किया जाएगा जबकि भ्रष्टाचार या अन्य नैतिक पतन में अन्तर्वलित दाण्डिक अपराध में सरकार द्वारा अभियोजन स्वीकृति के पश्चात, उसके विरुद्ध चालान प्रस्तुत किया गया हो ।

In Hindi it is mentioned "सदैव निलंबित" it means that the disciplinary authority has no discretion in the matter. The Full Bench of this court in **M/s. Technofab Engineering Limited Vs. Bharat Heavy Electricals Limited and others in F.A. No. 514/2012 dated 15/09/2015** has held that the official language of the State of M.P. is Hindi, hence, Hindi version will prevail over English version. The court has held as under:-

"22. Two other questions arose for our consideration. The first was about the efficacy of "comma (,)" inserted in the amended Article 1-A of Schedule I after the word expression "counter claim" and before the expression "or memorandum". However, that question need not detain us because of the Hindi version of the official Act which does not contain such "," at the given place. In view of the provisions in the Madhya Pradesh Official Language Act, 1957 (M.P. Act No.5 of 1958), in particular, Section 3 thereof, we may have to accept the Hindi publication as more authentic and prefer the same. Section 3 of the Act of 1957 reads thus:-

"3. Official language for official purposes of the State.—[1] Subject as hereinafter provided, Hindi shall be the official language of the State for all purposes except such purposes as are specifically excluded by the Constitution and in respect of such matters as may be specified by Government from time to time by notification.

[(2) The form of numerals to be used for the official purposes of the State shall be the Devanagari form of numerals:

Provided that the State Government may, by notification, authorize the use of the international form of Indian numerals for any official purpose of the State.]"

23. The Full Bench of our High Court in the case of **Mangilal and another vs. Board of Revenue, M.P. and others 11** has authoritatively held that after the enactment of the Madhya Pradesh Official Language Act, 1957, the Hindi version published, be relied in a case of doubt. The Full Bench has considered the provisions of the Madhya Pradesh Official Language Act as also Article 345 of the Constitution of India while answering the question considered in that behalf."

7. Learned Single Judge has considered the proviso of rule 9(1) of Rules 1966. The proviso of rule 5 which was inserted vide amendment dated 03/08/1996 w.e.f. 17/04/96 reads as under:-

Proviso to sub-rule (1);

"Provided that a Government Servant shall invariably be placed under suspension when a challan for a

criminal offence involving corruption or other moral turpitude is filed against him”

Proviso to sub-rule (5);

“Provided that an order of suspension made under the first proviso to sub-rule 1 of Rule 9 shall not be revoked except by an order of the Government made for reasons to be recorded.”

The aforesaid proviso gives power to the Government to modify or revoke the order of suspension. This is an independent power which can be exercised by the Government. The disciplinary authority has no discretion in the matter of placing an employee under suspension if the charge-sheet has been filed against the employee involving him for commission of offence punishable under the provisions of prevention of corruption act. The mandate of proviso of rule 9(1) is clear that the employee has to be placed under suspension. In view of the judgment of Division Bench of this Court, the judgment passed by learned single judge in the case of **Suresh Kumar Purohit vs. State of M.P. and another, 2005(4)M.P.L.J. 524** is not a correct law.

8. In our opinion the Inspector General of Police Lokayukt Organization can very well remind the authority in regard to performance of its statutory duty that the employee be placed under suspension. When the disciplinary authority has no discretion then it cannot be said that the letter of Inspector General of Police is contrary to law, if the disciplinary authority has discretion then certainly question arises that whether the action taken by the authority is correct or not. However, when



the mandates of the rule is to place an employee under suspension facing trial for charges of corruption, the Lokayukt Organization can very well point out the disciplinary authority in regard to non-performance of its statutory duty if an employee has not been placed under suspension. We do not find any merit in these petitions, consequently, petitions are dismissed. No order as to costs.

**(S.K. GANGELE)**  
**JUDGE**

**(SANJAY YADAV)**  
**JUDGE**

MISHRA

**HIGH COURT OF MADHYA PRADESH PRINCIPAL SEAT  
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**(Division Bench: Hon'ble Shri Justice S.K. Gangele &  
Hon'ble Shri Justice Sanjay Yadav)**

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**ORDER**

FOR CONSIDERATION

**(S.K. GANGELE)  
JUDGE.  
10.2015**

**HON'BLE SHRI JUSTICE SANJAY YADAV**

**(SANJAY YADAV)  
Judge**

**Post for:**

**28/10/2015**

**(S.K. GANGELE)  
JUDGE.  
10.2015**