

[Spl/MAT/F-5/E]

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH**

No. MAT/MUM/JUD/ 208 /2016  
Maharashtra Administrative Tribunal,  
Pay & Accounts Barrack Nos.3 & 4,  
Free Press Journal Marg,  
Nariman Point, Mumbai 400 021.

Date : 18 JAN 2016

**CONTEMPT APPLICATION NO. 105 OF 2015  
IN  
ORIGINAL APPLICATION NO. 1048 OF 2014  
(DIVISION BENCH)**

- 1 Dr. Deepa Bapusaheb Bhosale,  
C/o. Shri A.V.Bandiwadekar, Advocate for the Applicant.

...**APPLICANT/S.**

**V/s.**

- 1 Shri Manukumar Srivastav,  
Addl. Chief Secretary, Revenue  
and Forest Dept., Govt. of  
Maharashtra, Having office at  
Mantralaya, Mumbai-32.

.. ..**RESPONDENTS**

✓ **Copy to :** The C.P.O. M.A.T., Mumbai.

*The applicant/s abovenamed has filed an application as per copy already served on you, praying for reliefs as mentioned therein. The Tribunal on the 13<sup>th</sup> day of **January, 2016** has made the following order:-*

**APPEARANCE** : . Shri A.V.Bandiwadekar, Advocate for the Applicant.  
Shri A.J.Chougule, P.O. for the Respondent.

**CORAM** : **HON'BLE JUSTICE SHRI. A.H.JOSHI, CHAIRMAN.**

**DATE** : **13.01.2016.**

**ORDER** : Order Copy Enclosed/Order Copy Over Leaf

*Manu*  
18/1/2016  
Research Officer,  
Maharashtra Administrative Tribunal,  
Mumbai.

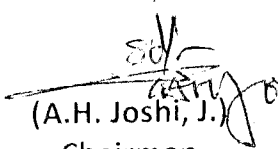
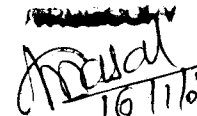


**RA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

of 20

of 20

**CONTINUATION SHEET NO.**

<p>am,</p>	<p style="text-align: center;"><b>Tribunal's orders</b></p>
<p>Number) A-</p>	<p>Date : 13.01.2016.</p> <p style="text-align: center;">C.A.No.105 of 2015 in O.A.No.1048 of 2014 (D.B.)</p> <p>1. Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.</p> <p>2. Learned Advocate for the Applicant states that Applicant is satisfied with the option taken by the State for complying with the order passed in O.A.</p>
<p>106</p>	<p>3. In view of the satisfaction of the Applicant, application is disposed of.</p>
<p>ule.</p>	<p style="text-align: right;">             (A.H. Joshi, J.)            Chairman         </p>
<p>.....</p>	<p>sba</p>
<p>4 (144)</p>	<p style="text-align: right;">             16/1/2016            Registrar (Research Officers)            Maharashtra Administrative Tribunal            Mumbai         </p>
<p>10</p>	<p>.....</p>
<p>10</p>	<p>.....</p>
<p>10</p>	<p>.....</p>

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH**

NO.MAT/MUM/JUD/ 201 /2016  
Maharashtra Administrative Tribunal  
Pay & Accounts Barrack Nos.3 & 4,  
Free Press Journal Marg,  
Nariman Point, Mumbai 400 021.

Date :

18 JAN 2016

**M.A. No. 13/2016 IN O.A. No. 24/2016 With  
O.A. No. 24/2016.**

1. Shri Santosh T. Borate & 04 Ors.,  
C/o. Shri S.S. Dere, Advocate for the Applicants.

....**APPLICANT/S.**

**VERSUS**

1. The Commissioner of Police, Mumbai, Office at Police Commissioner,  
S.B. Marg, Crawford Market, Mumbai-01.

...**RESPONDENT/S**

✓ Copy to : The C.P.O. M.A.T., Mumbai.

*The applicant/s above named has filed an application as per copy already served on you, praying for reliefs as mentioned therein. The Tribunal on the 13<sup>th</sup> day of **January, 2016** has made the following order:-*

APPEARANCE : Shri S.S. Dere, Advocate for the Applicants.  
Smt. K.S. Gaikwad, P.O. for the Respondents.

CORAM : **HON'BLE SHRI R.B. MALIK, MEMBER (J).**

DATE : **13.01.2016.**

ORDER : Order Copy Enclosed / Order Copy Over Leaf.

**O.A. No. 24/2016 :-** Order Copy Enclosed / Order Copy Over Leaf.

The said application has been admitted and the Tribunal has directed to issue notice for all the Respondents to file their replies. This notice is accordingly issued to you, you should file in duplicate, your duly verified reply along with copies of documents on which you intend to rely on or before ----- within 30 days from the date of receipt of this Notice. The said reply should be typed in double space and book form. You should, also simultaneously serve on the applicant or his Advocate a copy of the said reply along with the copies of the documents on which you intend to rely and file proof of such service in the registry. Also take notice that if you do not file the reply in the stipulated period the Tribunal will decide the case ex-prate.

Take notice that the above application has been fixed for Admission / Final Hearing on **10.02.2016**, at 11-00 a.m. You should appear for the said hearing in person or through your Advocate, to show cause, why the application should not be admitted.

Take further notice that in case you do not appear in person or through you Advocate, your application is liable to be dismissed for default/the matter will be decided ex-prate.

Please acknowledge receipt of notice positively.

Dated this                      day of                      2016.

*Mural*  
*16/1/2016*  
**Research Officer,  
Maharashtra Administrative Tribunal,  
Mumbai.**

Encl :  
Note

- 1 The Maharashtra Administrative Tribunal will not be able to deal with their correspondence, if they need some information.
- 2 They may seek it through their agents or their Lawyers, if any.
- 3 Their prayer for an early hearing of the case, cannot possibly be ordered on the basis of a letter since there is a provision of filing a Miscellaneous Application for the purpose.
- 4 Certified copy of the Judgment will be issued on the application of the concerned along with requisite copying fees.

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

M.A./R.A./C.A. No. of 20

IN

Original Application No. of 20

**FARAD CONTINUATION SHEET NO.**

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p><u>DATE:</u> 13/1/16</p> <p><u>CORAM:</u>  <del>Hon'ble Shri RAJIV AGARWAL</del>  (Vice-Chairman)  Hon'ble Shri R. B. MALIK (Member) ✓</p> <p><u>APPEARANCE:</u>  Shri/Smt. <u>S.S. Dere</u>  Advocate for the Applicant  Shri/Smt. <u>K.S. Gaikwad</u>  Advocate for the Respondents  order passed in  the Tribunal's  order.  M.A. is Allowed.</p>	<p><u>M.A.13/16 in O.A.24/16</u></p> <p>Heard Shri S.S. Dere, the learned Advocate for the Applicants and Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.</p> <p>This MA has been filed to sue jointly. As all the Applicants are seeking similar relief, the MA to sue jointly is allowed, subject to payment of Court Fees, if not already paid.</p> <p>(skw)</p> <p style="text-align: right;">sd/ <u>13.01.16</u>  (R.B. Malik)  Member (J)  13.01.2016</p> <p style="text-align: right;">TRUE COPY  <u>Malik</u>  16/1/2016  Asstt. Registrar / Research Officers  Maharashtra Administrative Tribunal  Mumbai</p>

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IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI

ORIGINAL APPLICATION NO.24 OF 2016

DISTRICT : MUMBAI

1. Santosh T. Borate & 4 others. )...**Applicants**

**Versus**

The Commissioner of Police. )...**Respondent**

**Shri Sandip S. Dere, Advocate for Applicants.**

**Smt. K.S. Gaikwad, Presenting Officer for Respondents.**


**P.C. : R.B. MALIK (MEMBER-JUDICIAL)**

**DATE : 13.01.2016**

**ORDER**

1. The Original Application (OA) is heard today for interim relief.

2. The Applicants in this OA are Police Personnel - one being Police Sub Inspector, one Police Constable and the others are Police Naiks. The cause of action, if one

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might use that expression arises out of the death of an accused in a matter of the alleged murder. He himself passed away while in custody and these Applicants are now facing music so to say. The Penal provisions of Sections 304 and 330 of the Indian Penal Code have been invoked against them and charge-sheet has already been laid against them. In normal circumstances, I should have thought that the matter will be committed to Sessions, but nothing more needs to be said thereabout by this Tribunal either now or even hereafter.

3. On the same set of facts, on another plain, a departmental enquiry (DE) has been instituted. When it was early days, the Applicants moved the authorities effectively seeking that the same be deferred till the decision of the Criminal Case. However, it appears that this request of the Applicants ultimately did not find favour with the authorities and they have now appointed the DE on 15<sup>th</sup> January, 2016. The Applicants are aggrieved by the rejection of their request and that is one aspect of the matter.

4. The Applicants seek the interim relief for a direction to the Respondents not to proceed with the DE against them.



5. I have heard the submissions of Mr. S.S. Dere, the learned Advocate for the Applicants who invited reference to Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. and Anr.(1999) ILLJ 1094 SC. He also referred me to a judgment of the Central Administrative Tribunal, Madras Bench in the matter of R. Rajamannar V. Union of India, 171.Swamy's CL Digest 1993, dated 28.11.1991. It seems from the record that this legal position was invoked by the Applicants in their request made to the authorities to defer the DE till the decision of the Criminal prosecution. I for one cannot find anything on record to indicate as to how the authorities were disposed or what was their response thereto. The legal position seems to be that while there is no hard and fast rule that the two proceedings run on their own respective fields simultaneously, but then depending upon the facts, the judicial forum has to show awareness to the points highlighted *inter-alia* in Paul Anthony (supra) and R. Rajamannar (supra) that in a given set of facts, if the delinquent is forced to open his mouth in the DE which he must, then he is likely to be prejudiced in the prosecution. In prosecution, he is not suppressed to open his mouth, so to say. But if he keeps silent in the DE, then in all probability, he suffers prejudice. Therefore, facts permitting, if the fact situation giving rise to the two

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proceedings is the same or substantially same, then the Tribunal can always decide to hold in abeyance the DE. It is very clear that the prosecution cannot await the outcome of the DE in any circumstance for several reasons which should be self-evident.

6. Mrs. Gaikwad, the learned P.O. while stoutly opposing grant of any relief told me that the nature of the charges in the DE is different and distinct than the prosecution. I make it clear that it will be open to both the sides to amplify their respective cases at the subsequent stage hereof. But as of today, an observation which by no means will be final must be made. That given, the facts such as they are, whatever may be the heads of charges, they have to be linked ultimately to the death of the deceased accused. Therefore, I do not think, I can act only on a mere say so of the Respondents that the charges are different. The issue is the essence and substance of the charge rather than its form.

7. No doubt, one has to be conscious and circumspect in staying any proceeding. However, that is in so far as the manner of exercising jurisdiction is concerned. The existence of power cannot in my view be questioned. By way of caution, I make it clear that even

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while making this order, I shall ensure that the interest of the Respondents is also adequately safe-guarded. Taking all these facts and factors into consideration, I direct that the Enquiring Officer in the DE in question may adjourn the same on 15<sup>th</sup> January, 2016 to a date after eight weeks by which time, the things should be crystallized. Liberty is reserved for both the sides to seek any variation or modification of this order depending upon the events. A copy of this order shall be communicated to the Respondents and the Enquiring Officer. All concerned shall act on a steno-copy hereof.

8. Issue notice returnable on 10<sup>th</sup> February, 2016. The Law Officer of Commissioner of Police Ms. Pooja Dhok is present before the Court. She shall convey this order to the Respondent - Commissioner.

9. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.

10. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondents are put to notice that the case would

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be taken up for final disposal at the stage of admission hearing.

11. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.

12. The service may be done by hand delivery / speed post / courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within four weeks. Applicant is directed to file Affidavit of compliance and notice.

13. S.O. to 10<sup>th</sup> February, 2016.

sd/

**(R.B. Malik)**  
**Member-J**  
**13.01.2016**

Mumbai  
Date : 13.01.2016  
Dictation taken by :  
S.K. Wamanse.

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Malik  
16/1/2016  
Asstt. Registrar / Research Officers  
Maharashtra Administrative Tribunal  
Mumbai

[Sp1/MAT/F-5/E]

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH**

NO.MAT/MUM/JUD/ 226 /2016  
Maharashtra Administrative Tribunal  
Pay & Accounts Barrack Nos.3 & 4,  
Free Press Journal Marg,  
Nariman Point, Mumbai 400 021.

Date : 19 JAN 2016

**ORIGINAL APPLICATION NO. 832 OF 2015.**

1. Mr. Jaywant S. Sarje,  
C/o. Shri Dr. G. Sadavarte, Advocate for the Applicant.  
Add. 109/18, Esplanade Mansion, M.G. Road, Fort, Mumbai-01.

....**APPLICANT/S.**

**VERSUS**

- 1 The Commissioner of Agriculture,  
M.S., Central Bldg., 3<sup>rd</sup> Floor,  
Pune-01.

...**RESPONDENT/S**

✓ Copy to : The C.P.O. M.A.T., Mumbai.

*The applicant/s above named has filed an application as per copy already served on you, praying for reliefs as mentioned therein. The Tribunal on the 13<sup>th</sup> day of **January, 2016** has made the following order:-*

APPEARANCE : None for the Applicant.  
Shri A.J. Chougule, P.O. for the Respondent.

CORAM : **HON'BLE JUSTICE SHRI A.H. JOSHI, CHAIRMAN.**


DATE : **13.01.2016.**

ORDER : 1. Heard Shri A.J. Chougule, the learned Presenting Officer for the Respondents.

2. Learned P.O. for the Respondent has tendered copy of order dated 31<sup>st</sup> December, 2015. Applicant's suspension has been withdrawn and he has been reinstated in service. Copy of order is taken on record.

3. O.A. is disposed of as infructuous.

**Sd/-**  
**(A.H. Joshi, J.)**  
**Chairman.**

  
**Research Officer,**  
**Maharashtra Administrative Tribunal,**  
**Mumbai.**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH**

NO.MAT/MUM/JUD/ 234 /2016  
Maharashtra Administrative Tribunal  
Pay & Accounts Barrack Nos.3 & 4,  
Free Press Journal Marg,  
Nariman Point, Mumbai 400 021.

Date : 19 JAN 2016

**C.A. NO. 71/2015 IN O.A. NO. 377/2012.**

1 Shri. Chandrakant M. Gaikwad,  
R/at. 1363, Saptarhrungi Niwas, Krishna Nagar, 9<sup>th</sup> Lane, Section 25,  
Ulhasnagar, Dist. Thane.

.....**APPLICANT/S.**

**VERSUS**

1 Shri. Gautam Chattargy, The  
Secretary, Home Dept.,(Transport),  
Mantralaya, Mumbai-32.

2 Smt. Soniya Sethi, The Transport  
Commissioner, M.S., 4<sup>th</sup> Floor, New  
Admini. Bldg., Govt. Colony,  
Bandra (E), Mumbai-51.

...**RESPONDENT/S**

✓ Copy to : The C.P.O. M.A.T., Mumbai.

The applicant/s above named has filed an application as per copy already served on you, praying for reliefs as mentioned therein. The Tribunal on the **13<sup>th</sup>** day of **January, 2016** has made the following order:-

APPEARANCE : Ms. S.P. Manchekar, Advocate for the Applicant.  
Ms. N.G. Gohad, P.O. for the Respondents.

CORAM : **HON'BLE JUSTICE SHRI A.H. JOSHI, CHAIRMAN.**

DATE : **13.01.2016.**

ORDER : 1. Heard Ms. S.P. Manchekar, the learned Advocate for the Applicant and Ms. N.G. Gohad, the Presenting Officer for the Respondents.

2. Learned Advocate for the Applicant Ms. Manchekar states as follows"-

(a) That the instructions contained in O.A. have been complied with.

(b) Applicant has no grievance to pursue.

3. In view of the above, Contempt Application is disposed of.

Sd/-

(A.H. Joshi, J.)  
Chairman.

*Mansal*  
18/1/2016  
**Research Officer,  
Maharashtra Administrative Tribunal,  
Mumbai.**