

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

WP(C).No. 20874 of 2015 (H)

PETITIONER:

**P.SASIDHARAN NAIR AGED 46 YEARS
ADMINISTRATIVE OFFICER
KERALA STATE COUNCIL FOR CHILD WELFARE, THYCAUD
THIRUVNANTHAPURAM (UNDER SUSPENSION)
RESIDING AT LALITHA VILASOM TC 49/100 MUDAVANMUGAL , POOJAPPURA
THIRUVANANTHAPURAM**

**BY ADVS.SRI.PIRAPPANCODE V.S.SUDHIR
SRI.JELSON J.EDAMPADAM**

RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF SOCIAL JUSTICE DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM, PIN 695001**
- 2. THE DISTRICT COLLECTOR
THIRUVANANTHAPURAM ADMINISTRATOR IN CHARGE
KERALA STATE COUNCIL FOR CHILD WELFARE, THYCAUD
THIRUVANANTHAPURAM, PIN 695014**
- 3. KERALA STATE COUNCIL FOR CHILD WELFARE
THYCAUD, THIRUVANANTHAPURAM, PIN 695014
REPRESENTED BY ITS ADMINISTRATOR IN CHARGE**
- 4. CHEMPAZHANTHI ANIL
INDEEVARAM, UDAYANNUR DEVI KSHETHRAM ROAD
MARUTHAMKUZHI, KANJIRAMPARA PO
THIRUVNANTHAPURAM 695009**

**R3 BY ADV. SRI.BLAZE K. JOSE, SC, KSCCW
R3 BY ADV. SRI.K.JAJU BABU (SR.)
R3 BY ADV. SMT.M.U.VIJAYALAKSHMI, SC, KSCCW
R1-R2 BY GOVERNMENT PLEADER SMT. M.J. RAJASREE
R BY SMT.M.U.VIJAYALAKSHMI**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
26-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE RELEVANT EXTRACT OF BYE LAWS OF THE 3RD RESPONDENT**
- P2: TRUE COPY OF THE RELEVANT EXTRACT OF SERVICE RULES PERTAINING TO THE KERALA STATE COUNCIL FOR CHILD WELFARE**
- P3: TRUE COPY OF THE GO.(RT) NO.179/2012/SWD DATED 29.03.2012**
- P4: TRUE COPY OF THE ORDER NO.562/2014/KSCWS DATED 07.02.2014**
- P5: TRUE COPY OF THE ORDER NO. 7688/C2.2013/ SJD DATED 25.04.2014**
- P6: TRUE COPY OF THE PROCEEDINGS NO. A6/34037/2014 (1)DATED 22.05.2014**
- P7: TRUE COPY OF THE JUDGMENT IN WPC.NO.13293/2014 DATED 10.03.2015**
- P8: TRUE COPY OF THE JUDGMENT DATED 26.11.2014 OF THIS HON'BLE COURT IN WP.NO.2783/2012**
- P9: TRUE COPY OF THE ORDER NO. 81/2015/KSCCCW DATED 18.04.2015**
- P10: TRUE COPY OF THE GO(RT)NO.4043/2015/GAD DATED 30.05.2015**
- P11: TRUE COPY OF THE GO(RT) NO.418/2015 SJD DATED 02.07.2015**
- P12: TRUE COPY OF THE COMPLAINT FILE BY THE 4TH RESPONDENT ALONG WITH THE SOME PROFESSIONAL BILLS, ENCLOSED ALONG WITH EXT P11 ORDER DATED 02.07.2015**
- P13: TRUE COPY OF THE INTERIM ORDER DATED 27.05.2014 OF THIS HON'BLE COURT IN WPC.NO.13293/2014**
- P14: TRUE COPY OF THE PROFESSIONAL BILL, SUBMITTED BY THE STANDING COUNCIL SRI.BLAZE K. JOSE RELATING TO WA 687/2013**
- P15: TRUE COPY OF THE PROFESSIONAL BILL SUBMITTED BY THE STANDING COUNSEL SRI.BLAZE K. JOSE RELATING TO WPC 15549/2013**
- P16: TRUE COPY OF THE PROFESSIONAL BILL SUBMITTED BY THE STANDING COUNSEL SRI.BLAZE K. JOSE RELATING TO WPC 11898/2012**
- P17: TRUE COPY OF THE PROFESSIONAL BILL SUBMITTED BY THE STANDING COUNSEL SRI.BLAZE K. JOSE RELATING TO WPC 14657/2012**

- P18: TRUE COPY OF THE PROFESSIONAL BILL SUBMITTED BY THE STANDING COUNSEL SRI.BLAZE K. JOSE RELATING TO WPC 12799/2012
- P19: TRUE COPY OF THE PROFESSIONAL BILL SUBMITTED BY THE STANDING COUNSEL SRI.BLAZE K. JOSE RELATING TO WPC 10737/2012
- P20: TRUE COPY OF THE PROFESSIONAL BILL SUBMITTED BY THE STANDING COUNSEL SRI.BLAZE K. JOSE RELATING TO WPC 2783/2012
- P21: TRUE COPY OF THE PROFESSIONAL BILL SUBMITTED BY THE STANDING COUNSEL SRI.BLAZE K. JOSE RELATING TO WA 695/2013
- P22: TRUE COPY OF THE PROFESSIONAL BILL SUBMITTED BY THE STANDING COUNSEL SRI.BLAZE K. JOSE RELATING TO WA 694/2013
- P22A TRUE COPY OF THE RELEVANT PAGE OF THE NOTE FILE EVIDENCING PAYMENT OF PROFESSIONAL FEES TO BLAZE K GEORGE
- P22B TRUE COPY OF THE RELEVANT PAGE OF THE NOTE FILE EVIDENCING PAYMENT OF PROFESSIONAL FEES TO BLAZE K GEORGE
- P23: TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN W.P.(C) 6959/2013

RESPONDENTS' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 20874 of 2015 (H)

Dated this the 26th day of October, 2015

J U D G M E N T

The petitioner, who is employed under the 3rd respondent, is aggrieved with Ext.P11 order of suspension issued by the 1st respondent.

2. The order at Ext.P11 keeps the petitioner under suspension on allegations of misappropriation of funds. However, till date no charge sheet has been issued. It is also not clear as to who is the appointing authority of the petitioner and whether the 1st respondent is competent to issue the order at Ext.P11. In any event, the petitioner seems to have been kept out of service for more than three months, without even a charge sheet being issued.

3. The learned counsel for the 3rd respondent appears and submits that when Ext.P12 complaint was forwarded to the Office of the Chief Minister, the 3rd respondent had filed a report regarding the same, pursuant

to which the suspension order emanated from the 1st respondent Government itself. The District Collector is said to be the Administrator-in-charge and this Court is unable to find any authority on the 1st respondent to issue an order as issued at Ext.P11.

4. Following the dictum laid down in **Ajay Kumar Choudhary v. Union of India - AIR 2015 SC 2389**; the order of suspension is found to be bad for the reason that it has gone beyond three months and the petitioner has been kept out of service, even without issuance of a charge memo.

5. In such circumstance, the 3rd respondent shall immediately reinstate the petitioner. Ext.P11 would be set aside. If the 3rd respondent Council is of the opinion that proceedings are to be taken against the petitioner on the basis of the allegations, then, necessarily, charge sheet would have to be issued and appropriate proceedings taken in accordance with law.

Leaving such liberty, the writ petition is allowed setting aside Ext.P11.

Sd/-
K.VINOD CHANDRAN,
JUDGE