

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 21ST DAY OF OCTOBER 2015/29TH ASWINA, 1937

W.P.(C).No.32121 of 2015 (M)

PETITIONER(S):-

T.K. SURESH BABU, AGED 52 YEARS, S/O.LATE BALA KURUP,
THEEKKUNNUMEL HOUSE,
A7, DEVASWOM STAFF QUARTERS, NENMENI,
GURUVAYOOR-680 104.

BY ADV. SRI.M.A.ABDUL HAKHIM.

RESPONDENT(S):-

1. GURUVAYOOR DEVASWOM,
GURUVAYOOR-680 101,
REPRESENTED BY ITS ADMINISTRATOR.
2. GURUVAYOOR DEVASWOM MANAGING COMMITTEE,
GURUVAYOOR DEVASWOM, GURUVAYOOR-680 101,
REPRESENTED BY ITS CHAIRMAN.
3. THE ADMINISTRATOR,
GURUVAYOOR DEVASWOM, GURUVAYOOR-680 101.
4. GURUVAYOOR DEVASWOM COMMISSIONER,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.PIN-695 001.

R1 TO R3 BY STANDING COUNSEL SRI. P.GOPAL
R4 BY GOVERNMENT PLEADER SMT.A.LOWSY.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
21-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXT.P1- A PHOTOSTAT COPY OF THE ORDER OF THE 3RD RESPONDENT
 SUSPENDING THE PETITIONER FROM SERVICE DATED 3.6.2015.
- EXT.P2- A PHOTOSTAT COPY OF THE JUDGMENT OF THIS HON'BLE
 COURT IN W.P[C]NO.17249/2015 DATED 23.7.2015.
- EXT.P3- A PHOTOSTAT COPY OF THE MEMO OF CHARGES WITH
 STATEMENT OF ALLEGATIONS ISSUED BY THE 3RD
 RESPONDENT TO THE PETITIONER DATED 8.10.2015.
- EXT.P4- A PHOTOSTAT COPY OF THE LEGAL OPINION OF THE
 ADVOCATE GENERAL DATED 30.4.2015.
- EXT.P5- A PHOTOSTAT COPY OF THE REPRESENTATION SUBMITTED BY
 THE PETITIONER DATED 30.1.2015.
- EXT.P6- A PHOTOSTAT COPY OF THE FIR IN CRIME NO.415/2014 OF
 GURUVAYOOR POLICE STATION DATED 19.3.2014.
- EXT.P7- A PHOTOSTAT COPY OF THE DISCHARGE CARD ISSUED BY
 RAJA CHARITABLE MEDICAL TRUST, CHAVAKKAD D
 ATED 19.3.2014.
- EXT.P8- A PHOTOSTAT COPY OF THE FINAL REPORT SUBMITTED BY
 THE POLICE IN CRIME NO.415/2014 DATED NIL.
- EXT.P9- A PHOTOSTAT COPY OF THE SAID ORDER PASSED BY THE
 SECRETARY TO THE GOVERNMENT, REVENUE DEPARTMENT
 DATED 21.5.2014.
- EXT.P10- A PHOTOSTAT COPY OF THE DECISION OF THE MANAGING
 COMMITTEE DATED 19.3.2014.
- EXT.P11- A PHOTOSTAT COPY OF THE COUNTER AFFIDAVIT FILED BY
 THE 3RD RESPONDENT IN SLP (CIVIL) NO.15698/2004 BEFORE
 THE HON'BLE SUPREME COURT DATED 22.7.2005.
- EXT.P12- A PHOTOSTAT COPY OF THE LETTER ISSUED BY ADDITIONAL
 CHIEF SECRETARY OF THE GOVERNMENT OF KERALA TO THE
 GENERAL SECRETARY OF THE GURUVAYOOR DEVASWOM
 EMPLOYEES CONGRESS DATED 26.11.2010.
- EXT.P13- A PHOTOSTAT COPY OF THE REPLY ISSUED BY THE SUB
 INSPECTOR OF POLICE, GURUVAYOOR DATED 5.7.2014.

- EXT.P14- A PHOTOSTAT COPY OF THE JUDGMENT OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE COURT, CHAVAKKAD IN C.C.1052/2010 DATED 23.11.2011.
- EXT.P15- A PHOTOSTAT COPY OF THE CIRCULAR WITH RESPECT TO THE GUIDELINES FOR TRANSFER DATED 13.7.2000.
- EXT.P16- A PHOTOSTAT COPY OF THE REPORT OF A COMMITTEE WHICH WAS SET UP TO FRAME NEW GUIDELINES FOR TRANSFER DATED 31.10.2008.
- EXT.P17- A PHOTOSTAT COPY OF THE TRANSFER ORDER ISSUED BY THE 3RD RESPONDENT DATED 28.1.2014.
- EXT.P18- A PHOTOSTAT COPY OF THE ORDER ISSUED BY THE 3RD RESPONDENT DATED 12.2.2015.
- EXT.P19- A PHOTOSTAT COPY OF THE INTERIM ORDER OF THIS HON'BLE COURT IN W.P[C]NO.5752/2015 DATED 24.2.2015.
- EXT.P20- A PHOTOSTAT COPY OF THE DECISION OF THE 2ND RESPONDENT DATED 27.2.2015.
- EXT.P21- A PHOTOSTAT COPY OF THE ORDER OF THE 3RD RESPONDENT DATED 2.3.2015.
- EXT.P22- A PHOTOSTAT COPY OF THE FILE NOTE OBTAINED UNDER RIGHT TO INFORMATION ACT DATED 26.2.2015.
- EXT.P23- A PHOTOSTAT COPY OF THE DECISION OF THE 2ND RESPONDENT DATED 2.3.2015.
- EXT.P24- A PHOTOSTAT COPY OF THE LETTER ISSUED BY THE ASSISTANT COMMISSIONER OF POLICE TO THE 3RD RESPONDENT DATED 14.7.2014.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.32121 of 2015-M

Dated this the 21st day of October, 2015

JUDGMENT

The petitioner is aggrieved with Exhibit P3 memo of charges dated 08.10.2015. On the basis of the charges now alleged, the petitioner was also kept under suspension by order dated 03.06.2015. The petitioner was before this Court with a writ petition at Exhibit P2. This Court having considered the submission of the petitioner as also of the Devaswom Board, found that the allegations are not grave enough to warrant suspension. This Court, in fact, clearly found that based on the nature of the charges that are contemplated against the petitioner as disclosed in the counter affidavit, the respondents would have to establish the charges against the petitioner in a formal enquiry to be conducted, before fastening the petitioner with any punishment. The suspension was found to be bad. On the basis of the allegations made, it was found that the respondent-Board would not be prejudiced in any manner if the petitioner is continued in service. It was also noticed that the petitioner was

stationed at a different place from the main office of the Devaswom Board. It was also submitted by the learned Senior Counsel appearing for the respondent-Board that the disciplinary proceedings would be completed expeditiously. The judgment was dated 23.07.2015 and the chargesheet now issued is subsequent to that.

2. In the context of the specific finding in the earlier judgment and on an independent consideration of the memo of charges, this Court is not inclined to interfere with the proceedings at this stage. All contentions of the petitioner would be left open and it is only necessary to direct that the proceedings should be completed in a time bound manner. The petitioner is directed to submit the explanation within two weeks from today and the disciplinary authority is directed to consider the same and if satisfied that an enquiry is to be initiated, the same has to be done within a period of two weeks from that date. If the disciplinary authority is of the view that no proceedings need be taken on the basis of the objection, then the disciplinary authority shall issue an order in writing, dropping the proceedings within

the specified period. If an enquiry is contemplated, an Enquiry Officer shall be appointed and the venue shall also be specified and the entire proceedings shall be completed within three months from the date of appointing the Enquiry Officer. If the enquiry is scheduled at a place other than Vengad Gokulam, the petitioner shall be allowed duty leave to participate in the proceedings and also be paid the necessary T.A. and D.A. allowable under the Rules.

With the above direction, the writ petition would stand closed; however, making it clear that all contentions of either parties are left open.

Sd/-
K.Vinod Chandran
Judge.

vku/-

[true copy]