IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2015

CORAM

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.16651 of 2015
and
M.P.No.1 of 2015

M.Gopinath ...Petitioner

Vs.

1. The Secretary to Government of Tamil Nadu,
Commercial Taxes and Registration Department,
Secretariat Building,
Chennai-9.

2. The Inspector General of Registration,
Chennai-28. ...Respondents

Prayer:- Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the records of the impugned proceeding No.785/V2/2014-2, dated 08.01.2014 of the second respondent and quash the same as null and void and against the basic principle of natural justice.

For Petitioner : Mr.G.Thangavel

For Respondents : Mrs.M.E.Raniselvam,
Additional Government Pleader

ORDER

With the consent of both sides, this writ petition is taken up for final disposal.

2. The petitioner was a Joint Sub-Registrar, Avadi, Chennai (South) Registration District. He was trapped and arrested on 06.01.2014 for demanding and accepting certain bribe amount. An F.I.R. No.1/AC/HQ/2014, dated 06.01.2014 for the offence under Section 7 of the Prevention of Corruption Act, 1988, was registered by the Inspector of Police, Special Investigation Cell, V & AC, Chennai - 28. Pursuant to his arrest and remand, the petitioner

was placed under suspension by an order dated 08.01.2014 invoking the power under Rule 17(e)(1)(ii) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955.

3. The petitioner has filed this writ petition seeking to quash the aforesaid suspension order.

4. Learned counsel appearing for the petitioner has submitted that the petitioner has been under suspension for about 16 months and he is not able to state whether the investigation is over or not. Since the petitioner is placed under suspension for about 16 months, the learned counsel for the petitioner has prayed for interference of this Court in the order of suspension.

5. Since the matter is relating to corruption case, I am not inclined to interfere with the same, particularly, in view of the judgment of the Division Bench of this Court reported in 2014 (5) MLJ 769 [The Chairman, TNEB and Another V. S.Venkatesan]. It is appropriate to extract the relevant paragraph of the judgment which reads as under :

> "25. The case of the petitioner is one of deemed suspension and merely because criminal prosecution is keeping prolonged and that the first respondent/writ petitioner is also kept under suspension for over 5 years, cannot be a ground to revoke the order of suspension with an consequential order of reinstatement. The cases referred to by the learned counsel appearing for the first respondent/writ petitioner would disclose that in some cases pursuant to the Court orders and orders of acquittal passed by the Criminal Court, orders of suspension have been revoked and in some cases, based on the recommendation made by the Chief Vigilance Officer, ADGP-Vigilance attached to TANGEDCO, orders of suspension have been revoked and each case depends upon its own facts and circumstances and in cases involving bribery and moral turpitude, there cannot be any uniform guideline especially with regard to revoking the orders of suspension."

6. However, as rightly contended by the learned counsel appearing for the petitioner, the investigation cannot be continued indefinitely. Hence, the aforesaid Investigation Officer is directed to complete the investigation and file a final report before the competent Court, within a period of six months from the date of receipt of a copy of this order.

7. Learned counsel appearing for the petitioner has further submitted that the petitioner has not been paid the subsistence allowance and he is getting 50% of wages as subsistence allowance

and according to him, he is entitled to 75% of wages as subsistence allowance after six months. He further stated that the petitioner had made various representations claiming 75% of wages as subsistence allowance after six months. While dismissing this Writ Petition and also issuing direction to the Investigation Officer as stated above, a direction is issued to the second respondent to consider the petitioner's claim of 75% of wages as subsistence allowance, after a period of six months and pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

8. In the result, this writ petition fails and the same is dismissed with the aforesaid directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

Jrl

To

1. The Secretary to Government of Tamil Nadu,
Commercial Taxes and Registration Department,
Secretariat Building,
Chennai-9.

2 The Inspector General of Registration,
Chennai-28.

1 CC to Mr.G.Thangavel, Advocate SR.No. 28904

1 CC to the Government Pleader, SR.No. 29017

W.P.No.16651 of 2015

JP (CO)
PSI (24.06.2015)