

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.28429 of 2015

M.Suresh Raja

.. Petitioner

- Vs -

The Revenue Divisional Officer,
Vridhachalam.

.. Respondent

Prayer:- Writ Petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records relating to the order of the respondent Ref.A1/3390/2014 dated 18.12.2014 and to reinstate the petitioner in service by setting aside the suspension order based on the judgment of the Apex Court in AIR 2015 page 2389 in Ajay Kumar Choudhary Vs. Union of India.

For Petitioner : Mr.A.V.Somasundaram
for M/s.Lakshmipriya Asso.

For Respondent : Mr.S.Gunasekaran
Government Advocate

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner while working as Village Administrative Officer at Tittaguid Taluk, Cuddalore District was set to have involved in the commission of offences punishable under Sections 7, 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988 in Crime No.8/2014 registered by the Vigilance and Anti Corruption, Cuddalore and he was arrested and remanded to judicial custody on 17.12.2014 and he came out on bail on 31.12.2014. Thus, he was incarcerated in custody beyond 48 hours and therefore he was placed under deemed suspension by the respondent vide order dated 18.12.2014. The grievance expressed by the petitioner is that nearly one year has lapsed and the order of suspension is yet to be reviewed by the respondent and therefore he came forward to file this writ petition.

3. Mr.A.V.Somasundaram, learned counsel appearing for the petitioner would submit that in the light of the ratio laid down by

the Hon'ble Supreme Court of India in Ajay Kumar Choudhary Vs. Union of India reported in AIR 2015 SC 2389 it is obligatory on the part of the respondent to review the order of suspension and prays for appropriate orders.

4. Heard the submissions of the learned counsel appearing for the petitioner and Mr.S.Gunasekaran, learned Government Advocate who accepts notice on behalf of the respondent.

5. It is relevant to extract paragraph No.14 of the above cited judgment of the Hon'ble Supreme Court which reads as follows:

"14. We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us."

6. It is not in serious dispute that the petitioner was arrested on 17.12.2014 for the alleged commission of the offences under Sections 7, 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988 and he was enlarged on bail on 31.12.2014 and therefore he was placed under deemed suspension vide impugned order dated 18.12.2014. It is settled position of law that unless and until the competent authority revokes the deemed suspension, this Court cannot direct the concerned authority to do a particular act, in a particular manner, that too in a positive way. However, in the light of the above

cited decision of the Hon'ble Supreme Court, the respondent is directed to review the order of suspension dated 18.12.2014 passed against the petitioner on merits and in accordance with law and pass orders within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

kk

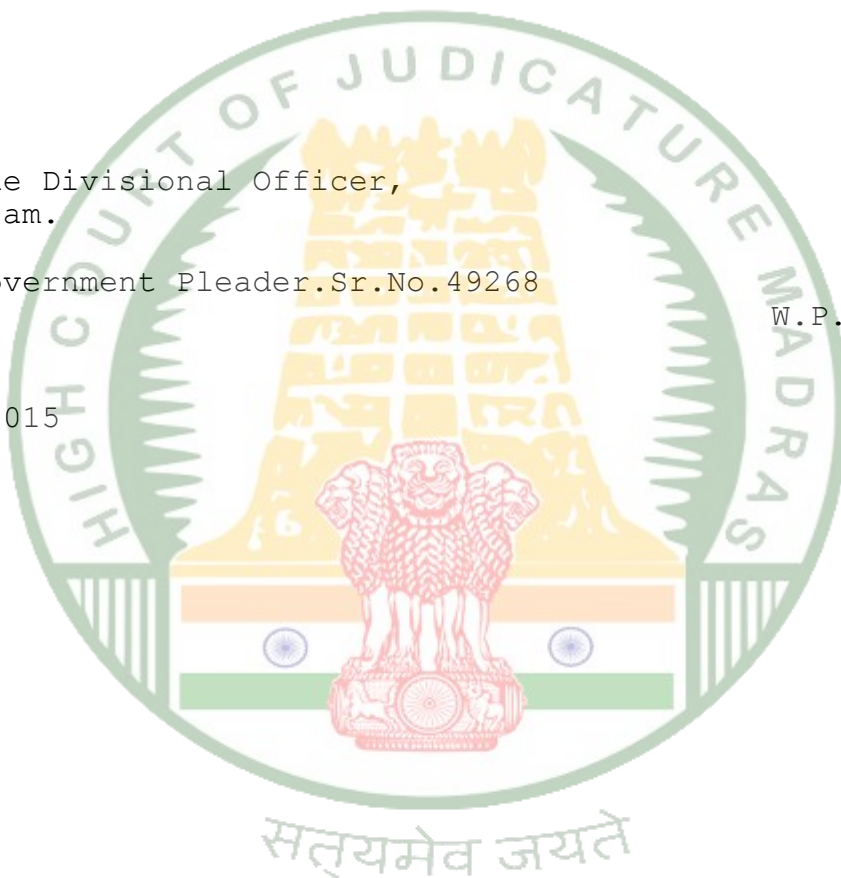
To

The Revenue Divisional Officer,
Vridhachalam.

1 cc to Government Pleader.Sr.No.49268

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