

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 15.09.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.28953/2015 & MP.Nos.1&2/2015

A.Ganapathy

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Petitioner

Versus

The Transport Commissioner
Chepauk, Chennai-5.

..

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorari calling for the records of the respondent in connection with the impugned order passed by him in Proc.R.No.36105/PA1/2015 dated 03.07.2015 and quash the same.

For Petitioner : Mr.K.Venkataramani, SC for
Mr.M.Muthappan
For Respondent : Mr.V.Subbiah, Spl.GP

ORDER

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

2 The petitioner, while working as Superintendent in the office of the Regional Transport office, Poonamallee, Chennai, along with Thiru.S.Balaji, computer operator of Shri Sathya Sai Infotech, Chennai and Contractor of ELCOT in the above said office, were arrested on 02.07.2015 for the alleged commission of the offences u/s.7, 12, 13[2] and 13[1][d] of the Prevention of Corruption Act, 1988, in Cr.No.1/AC/2015/CC-IV, registered by the Vigilance and Anti Corruption, CC-IV Detachment, for having demanded

and accepted illegal gratification of Rs.2000/- for renewal of 17 driving license on 29.06.2015. The respondent, vide order dated 3.07.2015, has placed the petitioner under deemed suspension. The petitioner was enlarged on bail on 06.07.2015 by the Court of the Chief Judicial Magistrate, Tiruvallur. Thereafter, he has submitted a representation dated 10.08.2015 stating among other things, that he has not committed the alleged offences and further stated that the order of deemed suspension is defective and non-est in the eye of law and that no amount has been recovered from the petitioner and prays for revocation of the suspension order and since, no orders have been passed, the petitioner came forward to file this writ petition.

3 Mr.K.Venkataramani, learned Senior Counsel appearing for the petitioner would submit that admittedly the petitioner was arrested on 02.07.2015 and however, the order of deemed suspension came to be passed only on 03.07.2015 stating that the petitioner was in incarceration for more than 48 hours and it cannot be so for the reason that within 24 hours, the order of deemed suspension came to be passed. It is the further submission of the learned senior counsel that even as per the version of the prosecution, no tainted money has been recovered from the petitioner and therefore, the entire case is false and a concocted one and prays for quashing of the impugned suspension order.

4 Per contra, Mr.V.Subbiah, learned Special Government Pleader, who accepts notice on behalf of the respondents would submit that the petitioner was incarcerated between 02.07.2015 and 06.07.2015 for more than 48 hours and in cases involving moral turpitude, hyper technicality cannot be projected and for proper administration and in the public interest only, the petitioner has been rightly placed under suspension and prays for dismissal of the writ petition.

5 In response to the said submission, the learned senior counsel appearing for the petitioner has drawn the attention of this Court to the Letter No.13519/N/2015-1 dated 23.07.2015 issued by the Personnel and Administrative Reforms [N] Department and would submit that the Government has taken note of the Judgment of the Hon'ble Apex Court reported in [2015] 3 CTC 119 SC [Ajay Kumar Choudhary Vs. Union of India and others] and issued certain guidelines for reviewing the order of suspension and it has also taken note of the Judgment of a Division Bench of this Court dated 19.08.2015 made in WA.No.973/2015 [T.Selvaraja V. The Principal Secretary to Government, State of Tamil Nadu, Home Department, Fort St George, Chennai-9 and another] and hence, prayed for appropriate orders.

6 This Court heard the rival submissions made on either side and perused the materials placed on record.

7 It is relevant to extract Paragraph 3 of the above cited letter dated 23.07.2015, which reads thus:-

"[3]In view of the above, the Hon'ble Supreme Court of India while fixing limitation on the period of suspension directed that:-

[i] 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.

[ii] If the Memorandum of Charges/Chargesheet is served, a reasoned order must be passed for the extension of the suspension.

The Department of Secretariat and Heads of Departments are therefore, requested to follow the directions ordered by the Hon'ble Supreme Court of India on the limitations in the period of suspension in letter and spirit."

8 The Division Bench of this Court, in the above said Judgment in WA.No.973/2015, has directed the concerned respondent to take note of the administrative instructions and pass orders on the representation within the stipulated time.

9 Though the petitioner has prayed for a larger relief, in the light of the above facts and circumstances, this court directs the respondents to consider and dispose of the petitioner's representation dated 10.08.2015 in accordance with law after taking note of the letter of the Personnel and Administration Reforms Department, dated 23.07.2015 and pass orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner herein.

10 The Vigilance and Anti Corruption, CC-IV Detachment, is also directed to complete the investigation in Crime No./FIR No.1/AC/2015/CC-IV dated 02.07.2015 and file the charge sheet before the jurisdictional court as expeditiously as possible, taking into consideration the nature of the allegations and the gravity of the offence.

11 The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed. The Registry is directed to mark a copy to Vigilance and Anti Corruption, CC-IV Detachment, Chennai-35.

AP

सत्यमेव जयते
-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

The Transport Commissioner
Chepauk, Chennai-5.

Copy To:-

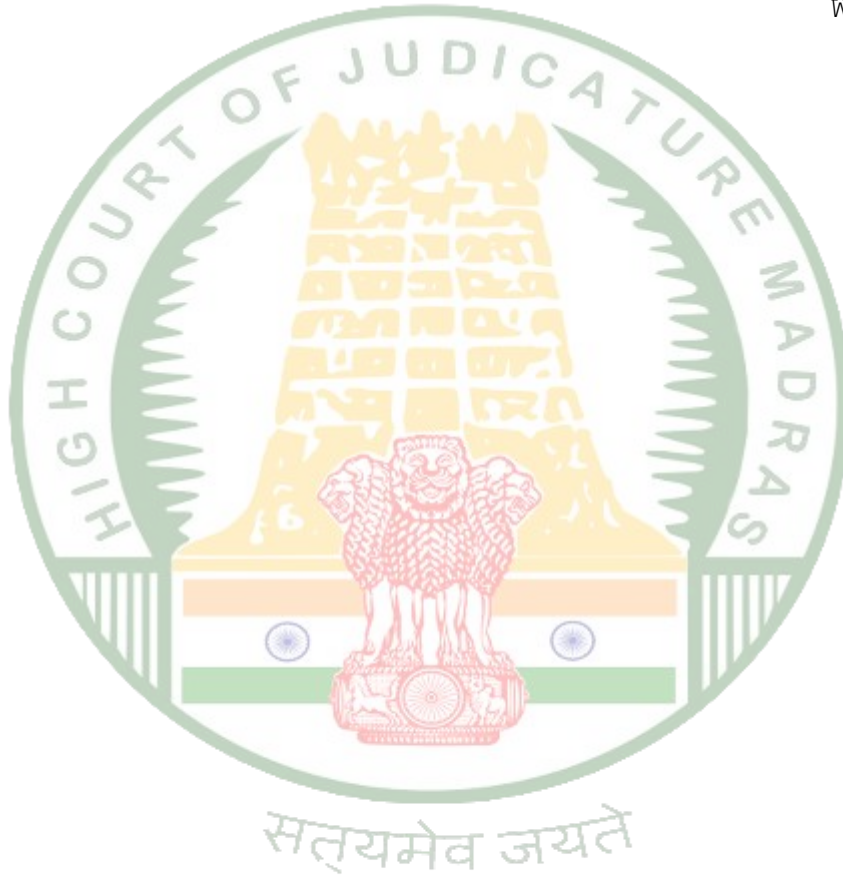
The Deputy Superintendent of Police,
Vigilance and Anti Corruption
CC-IV Detachment, Chennai-35.

+ 1 cc to M/s.M.Muthappan, Advocate SR 50446

+ 1 cc to Govt.Pleader SR 50554

sai(co)
prk13/10

W.P.No.28953/2015



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