

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

Writ Petition No.29808 of 2015
& M.P.No.1 of 2015

G.Srinivasan

... Petitioner

Vs.

The District Revenue Officer,
Salem

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the order of suspension made in Roc No.25780/2014 (A3), dated 03.09.2014 and to quash the same.

For Petitioner : Mr. L.Chandrakumar
For Respondent : Mr. V.Subbiah, Spl.G.P.,

O R D E R

Mr.V.Subbiah, learned Special Government Pleader accepts notice on behalf of the respondent. By consent of the learned counsel appearing for both sides, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner while working as an Assistant in "D" Section in the Office of the Sub Collector, Mettur, was trapped and arrested on 01.09.2014 for having demanded and accepted illegal gratification of Rs.10,000/- in Crime No.4 of 2014 registered by the Vigilance and Anti Corruption, attached to Salem District. The petitioner was placed under suspension by the respondent, vide order dated 03.09.2014, until further orders. Challenging the legality of the same, the petitioner has come forward to file this writ petition.

3. The learned counsel for the petitioner would submit that though nearly one year had lapsed, no progress is taking place either in the criminal case registered against the petitioner or in the departmental proceedings and hence prays for revocation of the order of suspension; in this regard, a representation was also submitted by the petitioner on 28.05.2015 to the respondent; since no orders have been passed, the petitioner has come forward to file this writ petition.

4. The learned counsel for the petitioner has invited the attention of this Court to the decision rendered by the Hon'ble Apex Court reported in [2015] 3 CTS 119 SC [Ajay Kumar Choudhary Vs. Union of India and others] and would submit that in the light of the ratio laid down in the said judgment, the suspension order passed against the petitioner is to be revoked and he may be kept in any non-sensitive post and prays for appropriate orders.

5. Per contra, the learned Special Government Pleader who accepts notice on behalf of the respondent would contend that the petitioner is placed under deemed suspension and unless and until the respondent reviews the order of suspension, the petitioner, as a matter of right, cannot ask for revocation of the order of suspension and prays for dismissal of the writ petition.

6. This Court has considered the rival submissions made by the learned counsel appearing for both sides and perused the materials available on record.

7. It is relevant to extract paragraph 14 of Ajay Kumar Choudhary's case [cited supra] which reads thus:-

"...

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/Charge sheet 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."

8. Though the petitioner has prayed for a larger relief, this Court in the light of the facts and circumstances of the case and without going into the merits of the claim projected by the petitioner, hereby directs the respondent to consider and dispose of the petitioner's representation dated 28.05.2015 in accordance with law and pass appropriate 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.

9. This writ petition is disposed of accordingly. No costs. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

srk

To

1. The District Revenue Officer, Salem.

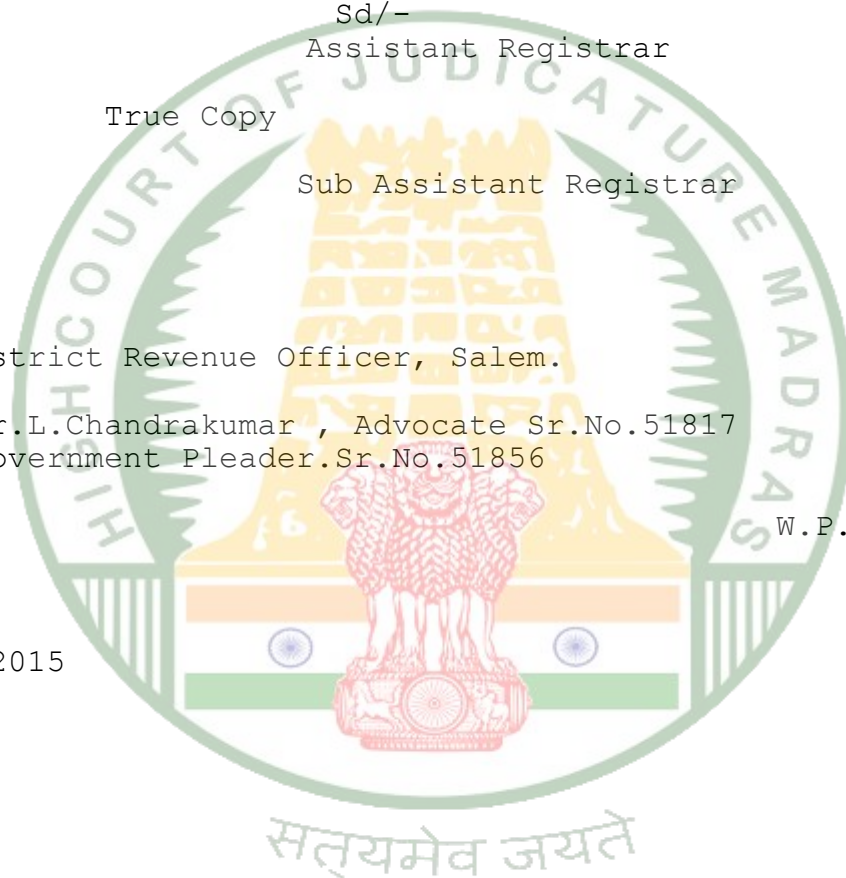
1 cc to Mr.L.Chandrakumar , Advocate Sr.No.51817

1 cc to Government Pleader.Sr.No.51856

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