

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.30319 of 2015

And

M.P.Nos.1 to 3 of 2015

M.Palaniappan

... Petitioner

Vs.

- 1 The State of Tamilnadu
rep. by the Secretary to Government
Department of Higher Education Fort St.
George Chennai-9
- 2 The Director of Collegiate
Education EVK Sampath Maaligai College
Road Chennai-6
- 3 The Principal
Arignar Anna Government Arts College
Vadachennimalai Post Athur Taluk Salem
District

.... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order of suspension in G.O.Ms.No.144 dated 20.6.2015 passed by the 1st respondent herein and quash the same and to permit the petitioner resume duty.

For Petitioner : Mr.S.Arunkumar
For Respondents : Mr.R.Vijayakumar
Additional Government Pleader

ORDER

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

2.The petitioner is employed as Assistant Professor in the Computer Science Department of Arignar Anna Government Arts College, Athur, Athur Taluk, Salem District and was arrested and remanded to judicial custody in connection with the case in Crime No.415 of 2015 registered by the Inspector of Police, Athur Police Station for the alleged commission of offences under Sections 342, 323 and 506(ii) of

I.P.C. The allegation in the F.I.R., is that the petitioner along with his father and brother has illegally confined his mother namely, Tmt.Saram and also ill treated her for the purpose of getting her property. Since the petitioner was incarcerated beyond 48 hours, he was placed under deemed suspension vide order of the first respondent in G.O.Ms.No.144, dated 20.06.2015. The petitioner later on came out on bail and submitted representations dated 18.06.2015 and 04.08.2015 praying for review/ revoking the order of suspension and since no response is forthcoming, came forward to file this writ petition.

3.Mr.S.Arunkumar, the learned counsel appearing for the petitioner would submit that the entire allegations levelled in the F.I.R. are nothing but false and concocted and the petitioner has nothing to do with the alleged commission of offences and the arrest and incarceration is also nothing to do with the discharge of his official duties and hence, prays for quashment of the impugned order.

4.Per contra, Mr.R.Vijayakumar, learned Additional Government Pleader who accepts notice on behalf of the respondents would submit that admittedly, the petitioner was in custody beyond 48 hours and therefore, he was placed under deemed suspension by the first respondent and unless and until it is revived by the competent authority, the petitioner as a matter of fact cannot seek for review/ revocation of the suspension order and prays for dismissal of the writ petition.

5.This Court heard the rival submissions and perused the materials placed before it.

6.It is relevant to extract paragraph 14 of 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] 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/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."

7. Though the petitioner prayed for a larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the same, permits the petitioner to submit representation to the first respondent by enclosing a copy of this order as well as the earlier representations submitted to the third respondent, within a period of two weeks from the date of receipt of a copy of this order and the first respondent on receipt of the same, is directed to consider the same on merits and in accordance with law and pass appropriate orders, within a period of six weeks thereafter and communicate the decision taken, to the petitioner. In the interregnum, shall also pay the subsistence allowance if not already paid.

8. The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-
Asst. Registrar (CS IV)

/true copy/

सत्यमेव जयते
Sub Asst. Registrar

pri

To

- 1 The State of Tamilnadu
rep. by the Secretary to Government
Department of Higher Education Fort St.
George Chennai-9
- 2 The Director of Collegiate
Education EVK Sampath Maaligai College
Road Chennai-6

WEB COPY

3 The Principal
Arignar Anna Government Arts College
Vadachennimalai Post Athur Taluk Salem
District

+1 cc to Mr.S.Arunkumar, Advocate, sr.52345
+1 cc to Government Pleader, sr.52440

W.P.No.30319 of 2015
And
M.P.Nos.1 to 3 of 2015

ad co
kra 1/10



WEB COPY