

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.30398/2015

K.Sundari

... Petitioner

Versus

The District Collector,
Salem District, Salem.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus directing the respondent to review the order of suspension bearing Roc.36463/2014/(A2) dated 04.12.2014 passed by the respondent by considering the petitioner's representation dated 08.04.2015 and 27.05.2015 within a stipulated time as fixed by this Court.

For Petitioner : Mr.M.Ramdass

For Respondent : Mr.R.Vijayakumar,
Additional Government Pleader

O R D E R

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

2 The petitioner while working as Taluk Supply and Consumer Protection Officer, Salem, has demanded and accepted illegal gratification of Rs.2000/- from Thiru G.Suresh, for the purpose of issuing separate ration card. The petitioner was arrested and remanded to judicial custody on 02.12.2014 and since her period of incarceration exceeded 48 hours, she was placed under suspension by the respondent, vide order dated 04.12.2014. The petitioner has submitted a representation dated 08.04.2015 praying for reviewing/revoking the order of suspension and since no orders have been passed, she came forward to file this writ petition.

3 Learned counsel for the petitioner would submit that the petitioner has nothing to do with the alleged commission of the offence and she is falsely implicated and she is under suspension for more than 9 months and prays for reviewing/revoking the order of suspension.

4 Per contra, Mr.R.Vijayakumar, learned Additional Government Pleader, who accepts notice on behalf of the respondent, would submit that admittedly the petitioner was caught red-handed and accepting the illegal gratification of

Rs.2000/- other than legal remuneration and since her period of incarceration was beyond 48 hours, she was placed under deemed suspension and unless and until the competent authority reviews the deemed order of suspension, the petitioner, as a matter of right, cannot demand to review/revoke the suspension order and prays for dismissal of this writ petition.

5 This Court has carefully considered the rival submission made on either side and perused the materials placed before it.

6 The Hon'ble Supreme Court of India in Ajay Kumar Choudhary Vs. Union of India and others] reported in [2015] 3 CTS 119 SC has held in paragraph 14 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."

7 Though the petitioner has sought for a larger relief, this Court, in the light of the facts and circumstances and without going into the merits of the claim projected by the petitioner, respondent to consider and dispose of the petitioner's

representations dated 08.04.2015 and 27.05.2015 on merits and in accordance with law 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.

8 The writ petition is disposed of accordingly. No costs.

-Sd/-
Assistant Registrar(co)

//True copy//

Sub Assistant Registrar

28.09.2015

AP

To

The District Collector,
Salem District, Salem.

+1 cc to Mr.Ramadoss,Advocate(sr.52536)
+1 cc to Government Pleader(sr.52946)

ctk(co)
cp 01/10/2015

W.P.No.30398/2015

WEB COPY