

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.30968 of 2015

and

M.P.No.1 of 2015

K.Janakaran

..Petitioner

Vs.

1. The Revenue Divisional Officer,
Krishnagiri.

2. The Tahsildar,
Krishnagiri.

..Respondents

Petition filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of certiorarified mandamus to call for the records relating to the order dated 23.07.2014 in Na.Ka.No.5331/2008/A of the first respondent and quash the same and consequently direct the first respondent to revoke the order of suspension dated 17.12.2013 against the petitioner and reinstate the petitioner as Village Administrative Officer with effect from 17.12.2013 with all attendant benefits.

For Petitioner .. Ms.AL.Ganthimathi

For Respondents.. Mr.V.Subbiah,
Spl. Govt. Pleader

ORDER

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

2. The petitioner, while working as Village Administrative Officer of Sooriyanapalli Village, Krishnagri Taluk and District, was arrested and remanded to judicial custody on 14.12.2013 for having demanded and accepted illegal gratification of Rs.500/-, in connection with the case in Crime No.7/AC/2013 registered by the Vigilance and Anti Corruption Detachment, Krishnagiri. Since the period of incarceration is more than 48 hours, the petitioner was placed under suspension by the first

respondent vide order dated 17.12.2013. The petitioner has also submitted a representation dated 07.05.2014 for revoking the order of suspension and it was rejected on 23.07.2014 stating that the investigation is still pending. The petitioner, aggrieved by the said order, came forward to file this writ petition.

3. The learned counsel appearing for the petitioner would submit that the criminal case, after investigation, has culminated in a charge sheet bearing C.C.No.3 of 2015 and it has been taken on file by the Court of Special Judge for Trial of Prevention of Corruption Act Cases/ Chief Judicial Magistrate, Krishnagiri and hence there may not be any impediment on the part of the first respondent to review/revoke the order of suspension and prays for appropriate orders.

4. Per contra, Mr.V.Subbiah, learned Special Government Pleader, who accepts notice on behalf of the respondents, would submit that admittedly, the period of incarceration of the petitioner is extended beyond 48 hours and therefore, he has been rightly placed under deemed suspension and unless and until it is reviewed by the concerned authority, the petitioner as a matter of right, cannot pray for revoking/reviewing the order of suspension and prays for dismissal of the writ petition.

5. This Court has considered the rival submissions and also perused the materials placed before it. The Honourable Supreme Court of India in Ajay Kumar Choudhary Vs. Union of India through its Secretary and Another (2015 (7) SCC 291) has held that suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. In para 14, it has been observed 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. In the light of the fact that a criminal case after investigation has culminated in charge sheet, which has been taken on file by the Court of Special Judge for Trial of Prevention of Corruption Act Cases/Chief Judicial Magistrate, Krishnagiri in C.C.No.3 of 2015 coupled with the ratio laid down in the said decision, this Court is of the view that the impugned order is to be set aside and the matter is to be remanded to the first respondent for fresh consideration.

7. In the result, the writ petition is partly allowed. The impugned order dated 23.07.2014 is set aside and the first respondent is directed to consider the request made by the petitioner for revoking/reviewing the order of suspension, in the light of the filing of the charge sheet as well as the ratio laid down by the Honourable Supreme Court of India in the above cited decision, 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. No costs. Consequently, connected miscellaneous petition is closed.
Mmi

Sd/-

Assistant Registrar (Judicial)

/True Copy/

Sub-Assistant Registrar

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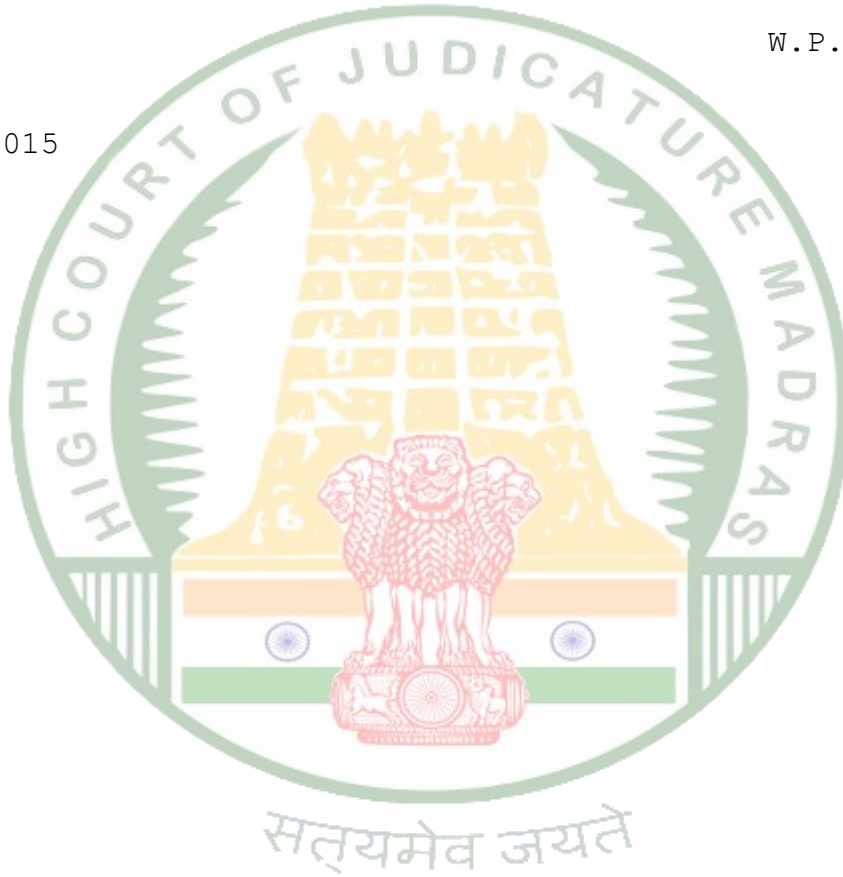
1. The Revenue Divisional Officer,
Krishnagiri.
2. The Tahsildar,
Krishnagiri.

+1 C.C. To Ms.AL.Ganthimathi, Advocate in SR.NO.53850

+1 C.C. To Government Pleader in SR.NO.53674

W.P.No.30968 of 2015

LRS (CO)
sd : 16/10/2015



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