

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 05.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.31235 of 2015 and M.P.No.1 of 2015

A.Anthonysamy

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Petitioner

Versus

1. The Director of Elementary Education
Chennai - 600 006.
 2. The District Elementary Educational Officer
Cuddalore
 3. The Assistant Elementary Educational Officer
Mangalore Block, Ramanatham
Vridhachalam Taluk
Cuddalore District
 4. The Manager
R.C.Primary and Middle Schools
St.Mary's Church Campus
Cuddalore - 607 001.
- .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of Certiorarified mandamus calling for the records relating to the impugned order passed by the 4th respondent dated 04.06.2015, bearing Ref.Nil and quash the same and consequently direct the respondents to reinstate the petitioner into service as Secondary Grade Teacher, R.C.Primary School Ja Endhel, Cuddalore District forthwith with all monetary benefits.

For Petitioner : Mr.Bharatha Chakravarthy for
M/s.Sai, Bharath and Ilan

For R1 to R3 : Mr.R.Vijayakumar, AGP

ORDER

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

2 The petitioner while working as the Secondary Grade Teacher in the services of the 4th respondent/School, is said to have involved in the commission of the offences punishable under section 3&12 of

Indian Passport Act, 1907 and under sections 465, 468 and 471 r/w 109 of IPC in the form of a criminal case in Cr.No.7/2015 dated 02.06.2015 registered by Thittakudi Police Station, Cuddalore District. Since the period of incarceration of the petitioner exceeded beyond 48 hours, he was placed under deemed suspension by the 4th respondent vide proceedings dated 04.06.2015. The grievance expressed by the petitioner is that in terms of Section 22 [3] of the Tamil Nadu Private Schools Regulation Act, the suspension cannot be in force beyond the period of two months and in this regard, he has also submitted a representation dated 09.09.2015 to the fourth respondent, praying for reviewing/revoking of the order of the suspension and though it was received and acknowledged on 10.09.2015, no orders have been passed by the 4th respondent and hence, the petitioner came forward to file this Writ Petition.

3 Heard the submissions of the learned counsel for the petitioner and Mr.R.Vijayakumar, learned counsel for the Additional Government Pleader, who accepts notice on behalf of the respondents 1 to 3.

4 The Honourable Supreme Court in Ajay Kumar Choudhary Vs. Union of India and others reported in [2015] 3 CTS 119 SC, in paragraph 14 has held 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."

5 Though the petitioner prayed for a larger relief, this court, in the light of the facts and circumstances, directs to the fourth respondent to consider the representation of the petitioner dated 09.09.2015 for reviewing/revoking the order of suspension, on merits and in accordance with law in the light of the statutory provisions as well as in the light of the above cited Judgment by Hon'ble Supreme Court of India and pass orders within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

6 The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.
nvi/AP

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Director of Elementary Education
Chennai - 600 006.
2. The District Elementary Educational Officer
Cuddalore
3. The Assistant Elementary Educational Officer
Mangalore Block, Ramanatham
Vridhachalam Taluk
Cuddalore District

+ 1 cc to Govt.Pleader SR 54038

+ 1 cc to Mr.Sai Bharath and Ilan, Advocates SR 53900

skv(co)
prk13/10

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