

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2015

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.31317 of 2015

And

M.P.Nos.1 and 2 of 2015

M.Senthil Kumar

... Petitioner

Vs.

1 The Regional Director
Survey and Land Records Department
Coimbatore

2 The Additional Director
Survey and Land Records Department
Coimbatore

3 The Assistant Director
Survey and Land Records Department
Coimbatore.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 3rd respondent in proceedings No.Rc.A8/6083/2014 dated .09.2014 signed on 2.9.2014 to quash the same.

For Petitioner : Mr.S.V.Pravin Rathinam
For Respondents : Mr.S.Gunasekaran
Government Advocate

O R D E R

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

2.The petitioner while working as Draughtsman in the Survey and Land Records Department at Coimbatore made obscene comments against

the co-lady employee in his face book account which resulted in registration of the case in Crime No.68 of 2014 by the Inspector of Police (Cyber Crime Cell), Coimbatore City Police Station for the alleged commission of offence under Sections 66(a)(b) and 67(A) of Information Technology Act, 2000 and the petitioner has filed an application for anticipatory bail and it was granted on 05.09.2014 in Criminal Miscellaneous Petition No.2711 of 2014 to the petitioner subject to certain conditions and it was also relaxed vide order of the Principal District and Sessions Judge, Coimbatore dated 10.10.2014 made in Criminal Miscellaneous Petition No.3038 of 2014. The petitioner was placed under suspension vide order of the third respondent dated 02.09.2014.

3.The grievance expressed by the petitioner is that though nearly one year has been lapsed, the order of suspension is yet to be reviewed and hence, came forward to file this writ petition.

4.The learned counsel appearing for the petitioner would submit that in the light of the judgment reported in 2015 (3) CTC 119 (Ajay Kumar Choudhary Vs. Union of India and others), suspension cannot be prolonged and the currency of the suspension order should not extend beyond three months, if within the said period charge memo/ charge sheet is not served on the delinquent officer and prays for quashment of the impugned order.

5.Per contra, Mr.S.Gunasekaran, learned Government Advocate who accepts notice on behalf of the respondents would submit that charge memo has been framed against the petitioner and vide memo of the third respondent dated 06.03.2015, he was called upon to submit his explanation and inspite of it, he is yet to submit his explanation/ response to the charge memo and prays for dismissal of the writ petition.

6.This Court has considered the rival submissions and also perused the materials placed before it.

7.It is relevant to extract paragraph 14 of the decision rendered by the Hon'ble Supreme Court reported in [2015] 3 CTC 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."

8. Though the petitioner prayed for a larger relief, this Court in the light of the above facts and circumstances, permits the petitioner to submit a representation seeking for revoking/ reviewing the order of suspension to the third respondent within a period of two weeks from the date of receipt of a copy of this order and the third respondent on receipt of the same, shall consider the same on merits and in accordance with law and pass orders within a period of eight weeks thereafter and communicate the decision taken, to the petitioner.

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

-Sd/-
Assistant Registrar

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Sub Assistant Registrar

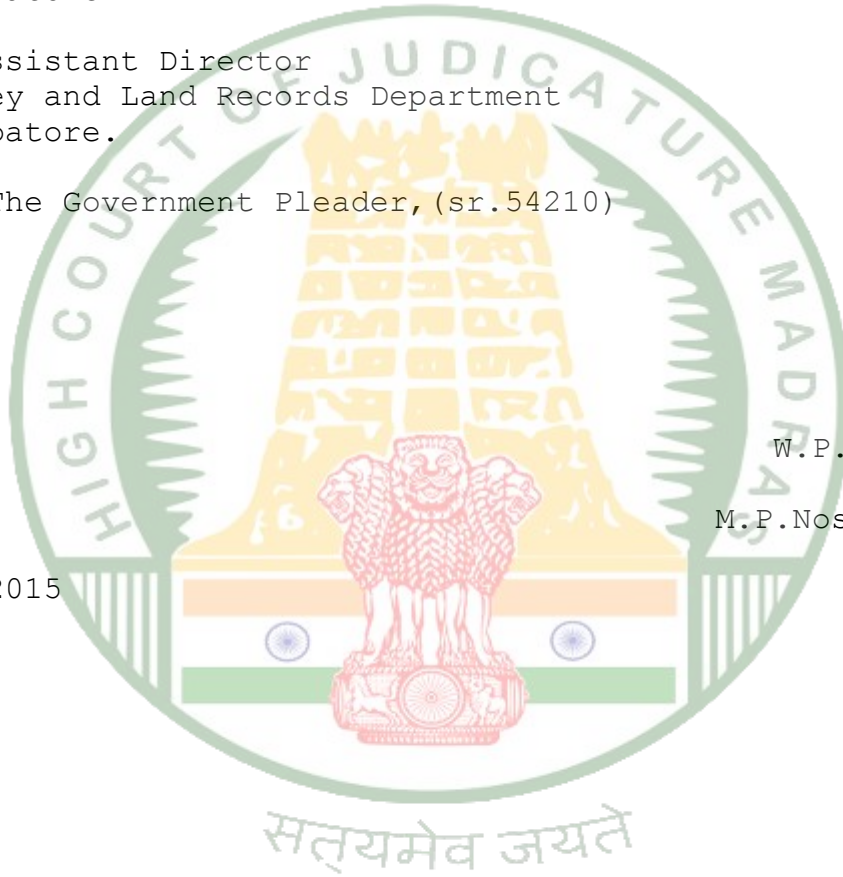
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To

- 1 The Regional Director
Survey and Land Records Department
Coimbatore
 - 2 The Additional Director
Survey and Land Records Department
Coimbatore
 - 3 The Assistant Director
Survey and Land Records Department
Coimbatore.
- +1 cc to The Government Pleader, (sr.54210)

ALA (co)
cp 13/10/2015

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