

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 14.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.32809/2015

K.Sadhasivam

.. Petitioner

Versus

1. The Additional Chief Secretary-cum
Commissioner of Revenue Administration,
Revenue Department, Chepauk, Chennai-5.
2. The District Collector
Collectorate, Namakkal District,
Namakkal.
3. The District Revenue Officer,
Collectorate, Namakkal District,
Namakkal.
4. The Sub Collector
Namakkal District, Namakkal.
5. The Revenue Divisional Officer
Paramathi Road, Namakkal.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for a writ of certiorarified mandamus calling for the records relating to the proceedings dated 29.06.2013 in Roc.No.5099/2013/A1 passed by the 4th respondent and quash the same and direct all the respondents herein to reinstate the petitioner in service with all service and monetary benefits till date.

For Petitioner : Mr.A.Rajakumar

For Respondent : Mr.N.Srinivasan, AGP

ORDER

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

2. The petitioner while working as the Village Administrative Officer at Pottireddipatty and also in-charge of Kejakombai Village, Namakkal District, was trapped and arrested in his office on 28.06.2013 in connection with the case in Cr.No.4/AC/2013 registered by the Vigilance and Anti Corruption Detachment, Namakkal, for having demanded Rs.3500/- and accepted illegal gratification of Rs.1500/- from one

C.Kathirvel, for arranging to issue Nativity Certificate to his wife's brother, viz., Manikanda Prabu and since the period of incarceration exceeded 48 hours, the petitioner was placed under suspension by the 4th respondent vide order dated 29.06.2013 and challenging the legality of the said order, the petitioner came forward to file this writ petition.

3. Learned counsel for the petitioner would submit that the petitioner was placed under suspension as early as on 29.06.2013 and it has not been reviewed so far and also placed reliance on G.O.Ms.No.30, P&AR [N] Department, dated 23.12.2012 which speaks about the periodical review of the suspension order and hence, prays for quashment of the impugned order of suspension and reinstatement of the petitioner in service.

4. Per contra, Mr.N.Srinivasan, learned Additional Government Pleader who accepts notice on behalf of the respondents, would submit that the petitioner has been placed under deemed suspension and unless and until the competent authority reviews the suspension order, the petitioner, as a matter of right, cannot pray for reviewing/revoking the order of suspension and prays for dismissal of this writ petition.

5. This Court heard the rival submissions made on either side and also perused the materials placed before it.

6. The Honourable Supreme Court in Ajay Kumar Choudhary Vs. Union of India and others reported in [2015] 3 CTC 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."

The Government of Tamil Nadu, based on the above said Judgment, has also issued administrative instructions in Letter No.13159/N/2015 dated 23.07.2015 with regard to reviewing the order of prolonged suspension.

7. Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in his representation or in this writ petition, directs the 4th respondent to consider and dispose of the petitioner's representation dated 18.08.2015 on merits and in accordance with law, in the light of the above cited judgment 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.

AP

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub-Assistant Registrar

To

1. The Additional Chief Secretary-cum
Commissioner of Revenue Administration,
Revenue Department, Chepauk, Chennai-5.
2. The District Collector
Collectorate, Namakkal District,
Namakkal.
3. The District Revenue Officer,
Collectorate, Namakkal District,
Namakkal.

4. The Sub Collector
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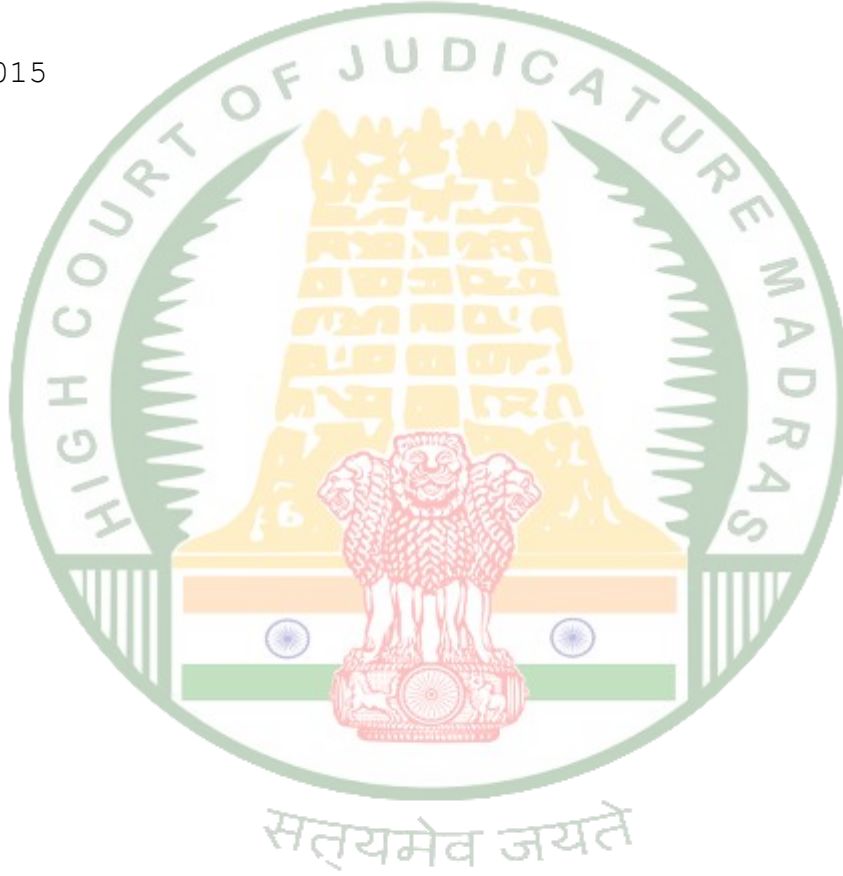
5. The Revenue Divisional Officer
Paramathi Road, Namakkal.

+1 C.C. To MR.A.Rajkumar, Advocate in SR.NO.56414

+1 C.C. To Government Pleader in SR.NO.57568

W.P.No.32809/2015

JP (CO)
sd : 28/10/2015



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