

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.34741/2015 & MP.No.1 of 2015

N.Mathaiyan

..Petitioner

Vs

1. The Principal Secretary cum
Commissioner of Survey Land Records Settlement,
Survey Department,
Chepauk,
Chennai - 600 005.
2. The Revenue Secretary to
Government of Tamilnadu,
Revenue Department,
Secretariat,
Fort St. George,
Chennai - 600 009.
3. The District Collector,
Collectorate,
Salem - 600 001.
4. The Assistant Director,
Survey and Land Records,
Salem.

..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 09.05.2015 made in Roc. No.3036/2015/A3 passed by the 4th respondent and quash the same and direct the respondents herein to reinstate the petitioner in service, with all service and monetary benefits till date.

For Petitioner : Mr.A.Rajakumar

For Respondents : Mr.V.Subbiah, Spl.GP

ORDER

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

2.The petitioner, while working as Sub Inspector of Survey, Salem North Town, in the services of the Salem City Municipal Corporation, said to have been arrested and remanded to judicial

custody on 07.05.2015, for the alleged demand and acceptance of illegal gratification of Rs.5000/- to discharge his official duty and in this regard, the Vigilance and Anti Corruption Detachment, has also registered a case in Cr.NO.8/AC/2015 for the alleged commission of the offences u/s.7, 13[2] r/w 13[1][d] of the Prevention of Corruption Act, 1988. Since the period of incarceration has exceeded 48 hours he was placed under deemed suspension by the 4th respondent, vide order dated 09.05.2015 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 is nothing to do with the alleged commission of the offences and he is falsely implicated and prays for quashment of the order.

4. Per contra, Mr.V.Subbiah, learned Special Government Pleader who accepts notice on behalf of the respondents, would submit that the petitioner, even for performance of his official duty, has demanded and accepted illegal gratification and since he was confined in custody for more than 48 hours, he was rightly placed under deemed suspension and hence, prays for dismissal of the writ petition.

5. This Court heard the rival submissions 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/guidelines 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 same, directs the petitioner to submit a representation to the 4th respondent for reviewing/revoking the suspension order within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the 4th respondent is directed to consider such representation 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.

8. The writ petition is disposed of accordingly. No costs. Consequently the connected miscellaneous petition is closed.

AP

Sd/-

Assistant Registrar (Judicial)

/True Copy/

Sub-Assistant Registrar

To

1. The Principal Secretary cum
Commissioner of Survey Land Records Settlement,
Survey Department,
Chepauk,
Chennai-05.
2. The Revenue Secretary to
Government of Tamilnadu,
Revenue Department,
Secretariat,
Fort St. George,
Chennai-09.
3. The District Collector,
Collectorate,
Salem-01.

4. The Assistant Director,
Survey and Land Records,
Salem.

+1 C.C. To MR.A.Rajkumar, Advocate in SR.NO.59172

+1 C.C. To The Government Pleader in SR.NO.59853

W.P.No.34741/2015

ACA(CO)
SD : 06/11/2015



WEB COPY