

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-10-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.34940 of 2015

and

M.P.No.1 of 2015

M.Guhanathan

.. Petitioner

vs

- 1.The State of Tamil Nadu
rep. By its Principal Secretary
Public (Special-A) Department
Fort St. George, Chennai 9
 - 2.The Additional Chief Secretary cum
Commissioner of Revenue
Administration
Revenue Department
Chepauk, Chennai 5
 - 3.The Revenue Secretary
Revenue Department
Secretariat,
Fort St. George, Chennai 9
 - 4.The District Collector
Collectorate, Namakkal District
- .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the proceedings dated 2.5.2015, made in Roc.No.16616/2013/A2 passed by the fourth respondent, and quashing the same and directing all the respondents to appoint the petitioner immediately in appropriate post with appropriate seniority and appropriate place with appropriate time as per immediate junior with all monetary benefits till date.

For Petitioner : Mr.A.Rajakumar

For Respondents : Mr.S.Gunasekaran
Government Advocate

ORDER

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

2.The petitioner would state that he while working as a Deputy Tahsildar, was arrested by the jurisdictional Vigilance and Anti-corruption Detachment, Namakkal, for having demanded and accepted an illegal gratification of Rs.40,000/- and since he was arrested and incarcerated beyond 48 hours, he was placed under suspension on 14.6.2013, and in this regard, has submitted a representation for reviewing the order of suspension and also filed W.P.No.34584/2014 challenging the order of suspension, and this Court vide order dated 23.12.2014, directed the fourth respondent herein viz. the respondent therein, to consider and dispose of his representation in accordance with law and the fourth respondent in compliance of the said direction, has considered the representation and rejected the same vide order dated 2.5.2015, and challenging the legality of the same, the petitioner came forward to file this writ petition.

3.The learned Counsel appearing for the petitioner, would submit that in the light of the judgment rendered by the Hon'ble Supreme Court of India and reported in 2015 (3) CTC 119 : (2015) 7 SCC 291 (AJAY KUMAR CHOUDHARY V. UNION OF INDIA AND ANOTHER), coupled with the administrative instructions issued by the Personnel and Administrative Reforms Department of Government of Tamilnadu in Letter No.13519/N/2015-1 dated 23.7.2015, the order of suspension may be reviewed/revoked and prays for appropriate orders.

4.Per contra, Mr.S.Gunasekaran, learned Government Advocate, who accepted notice on behalf of the respondents, would submit that the petitioner was caught red-handed while accepting the illegal gratification of Rs.40,000/-, and since he was incarcerated beyond the period of 48 hours, he was rightly placed under deemed suspension and taking into consideration the nature and gravity of the offence, his request for reviewing/revoking the order of suspension was rightly rejected and prays for dismissal of this writ petition.

5.This Court has carefully considered the rival submissions and perused the materials placed before it.

6.It is relevant to extract the following paragraph of the above cited decision of the Hon'ble Supreme Court of India [(2015) 7 SCC 291]:-

"21.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/charge-sheet 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 person concerned 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 recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise that the 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."

7.Though the petitioner 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, permits the

petitioner to submit a representation to the fourth respondent within a period of two weeks from the date of receipt of a copy of this order, for reviewing/revoking the order of suspension, in the light of the above cited judgment rendered by the Hon'ble Supreme Court of India, and the fourth respondent, on receipt of the same, is directed to consider it on merits and in accordance with law, and pass orders thereon within a period of eight weeks therefrom and communicate the decision taken, to the petitioner. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To:

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Secretariat,
Fort St. George, Chennai 9
- 4.The District Collector
Collectorate, Namakkal District

+1 cc to Mr.Rajakumar Advocate sr.59171
+1 cc to Government Pleader sr.60050

W.P.No.34940 of 2015

mg(co)
aa17/11/2015