

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2016

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.1179 of 2016

D.Vijayakumar HC-2040
(under suspension)
Ambur Town Police Station
Vellore District.

... Petitioner

Vs

- 1.The Secretary to Government,
Home (Police) Department,
Fort St. George,
Chennai 600 009.
 - 2.The Director General of Police,
O/o.Director General of Police,
Mylapore, Chennai 600 004.
 - 3.The Inspector General of Police,
North Zone, O/o.Inspector General of Police,
Alandur, Chennai.
 - 4.The Deputy Inspector General of Police,
O/o.Deputy Inspector General of Police,
Vellore.
 - 5.The Superintendent of Police,
Vellore District, Vellore.
 - 6.The Director,
Vigilance and Anti-Corruption,
NCT 21 to 28,
VS Kumarasamy Raj Salai,
R.A.Puram, Chennai-28.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents 3 and 4 herein to consider and pass orders on the representations made by the petitioner dated 03.01.2016 in accordance with law.

For Petitioner : Mr.P.Kannan

For Respondents : Mrs.M.E.Rani Selvam, AGP

O R D E R

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

2.The petitioner has filed this writ petition seeking a direction to the respondents 3 and 4 to consider the petitioner's representation dated 03.01.2016 and pass orders in accordance with law.

3.According to the petitioner, originally the petitioner was selected as Second Grade police on 31.10.1997 and on completion of training, he was posted at TSP-8th Battalion for a period of five years from 1997 to 2000. After completion of 15 years service at various places, he was promoted as Head Constable HC-2040 on 01.11.2012. While so, a case in Crime No.3 of 2015 was registered against him for the offences under sections 7 & 13(2) r/w 13(1)(9) of the Prevention of Corruption Act, 1988, due to which, he was arrested on 18.02.2015 and was remanded to judicial custody. As a result, he was placed under suspension from 18.02.2015 till date. Therefore, the petitioner made a representation dated 03.01.2016 and also filed this writ petition for the relief stated supra.

4.Learned counsel for the petitioner submitted that the petitioner has been falsely implicated in the criminal case and he has nothing to do with the alleged offence. It is also submitted that since the petitioner suffered from the order of suspension, he is unable to meet out the medical expenses for his wife and parents and educational expenses for his children. Further, learned counsel for the petitioner submitted that though the case was registered against the petitioner during the year 2015, no charge sheet has been filed and no charge memo has been issued to the petitioner so far. Learned counsel by relying on the decision of the Hon'ble Supreme Court reported in (2015) 7 SCC 291 (Ajay Kumar Choudhary v. Union of India) also submitted that if no charge is framed against the suspended government employee within 90 days from the date of issuance of suspension order, then the government servant is no longer treated to be under suspension.

5.On the other hand, Mrs.M.E.Rani Selvam, learned Additional Government Pleader, who took notice for the respondents submitted that the petitioner submitted the

representation only on 03.01.2016. Without waiting for the order to be passed by the respondents, the petitioner approached this court with the present writ petition immediately.

6. Admittedly, the petitioner submitted his representation on 03.01.2016. It is the duty of the authorities to go through the entire records and analyse the same as per law, before passing any orders. That being the actual position, the petitioner cannot expect the authorities to pass orders immediately on receipt of his representation.

7. However, since the case was registered against the petitioner in the year 2015 and also in the light of the observation of the Hon'ble Supreme Court in the decision cited supra, the respondents are directed to consider and pass orders on the petitioner's representation dated 03.01.2016 on merits and in accordance with law. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

8. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst. Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1. The Secretary to Government,
Home (Police) Department,
Fort St. George,
Chennai 600 009.
2. The Director General of Police,
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3. The Inspector General of Police,
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4. The Deputy Inspector General of Police,
O/o. Deputy Inspector General of Police,
Vellore.

5.The Superintendent of Police,
Vellore District, Vellore.

6.The Director,
Vigilance and Anti-Corruption,
NCT 21 to 28,
VS Kumarasamy Raj Salai,
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1 cc to Government Pleader, Sr. 2420

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