

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2016

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

W.P. No. 31674 of 2016

&

W.M.P. Nos. 27482 & 27483 of 2016

M. Baskar ..Petitioner

Vs.

1. The Director of Adi Dravidar Welfare,
Chepauk, Chennai 600 005.
2. The District Adi Dravidar and Tribal
Welfare Officer,
Perambalur, Perambalur District. ...Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order passed by the 2nd respondent in proceeding No. R.C. No. 1-2/5209/2016, dated 20.05.2016 and quash the same and consequently direct the respondents to reinstate the petitioner with full service and monetary benefits.

For Petitioner :: Mrs. Selvi Rajesh
For Respondents:: Mr.K. Dhananjayan,
Special Govt. Pleader

सत्यमेव जयते

O R D E R

Mr.K. Dhananjayan, learned Special Government Pleader accepts notice on behalf of the respondents. By consent of both parties, the main writ petition itself is taken up for final disposal.

2. The petitioner is employed as Physical Education Teacher in Government Adi Dravidar and Tribal Welfare High School, Alambadi, Perambalur, Perambalur District and according to him, the Controller of Examinations, Annamalai University, Chidambaram had given a police complaint on 01.04.2015 to

Annamalai Nagar Police Station stating that nearly 1111 answer sheets of M.Sc Maths and Malayalam Language Exam Papers were found missing and an enquiry was also ordered and conducted to trace out the missing answer scripts and inspite of the same, they were unable to trace out the same. It is further stated in the complaint that the Controller of Examinations, Annamalai University had received a phone call informing that the missing answer scripts were sent through private courier to his address and all the missing papers were found in the courier and it had also been stated in the complaint that they suspect the role of some University Staff and requested for appropriate action. Subsequently, the case was transferred to CBCID and after a lapse of nearly one year, the petitioner along with one Venkatesan was arrested on 18.04.2016 and remanded to judicial custody and he was enlarged on bail on 26.04.2016. Since incarceration/custody of the petitioner was extended beyond the period of 48 hours, he was placed under deemed suspension. The petitioner has already submitted a representation dated 21.05.2016 stating among other things that he is not involved in the alleged commission of offence and prayed for revocation of the order of suspension. Since the said representation was not considered, the petitioner has come forward with the present writ petition.

3. Learned counsel for the petitioner would submit that persons similarly placed filed W.P. Nos. 18469 & 18470 of 2016 and obtained stay of the order of suspension and since the petitioner is innocent, prays for appropriate orders.

4. Per contra, Mr.K. Dhananjayan, learned Special Government Pleader would submit that investigation is still pending and if the petitioner is given any posting order, he is likely hamper the investigation and tamper with the witness and therefore, rightly, he is placed under suspension.

5. This Court paid its best attention to the rival submissions and also perused the materials placed on record. The Honourable Supreme Court, in the judgment rendered in Ajay Kumar Choudhary V. Union of India and another reported in 2015 7 SCC 291, considered the issue relating to indefinite period of suspension and it is relevant to extract paragraph 21 of the said judgment:

"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 contract 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."

6. Though the petitioner has sought for a larger relief, in the light of the facts and circumstances of the case, without going into the merits of the same, the petitioner is directed to submit one more representation to the 2nd respondent, along with a copy of this order, for revocation of the order of suspension, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the said representation, the 2nd respondent is directed to consider the same and pass orders, on merits and in accordance with law, within a further period of eight weeks thereafter and communicate the decision taken to the petitioner. The writ petition is disposed of accordingly. No costs. Connected W.M.Ps are closed.

Sd/-

सत्यमेव जयते
Assistant Registrar

//True Copy//

WEB COPY
Sub Assistant Registrar

nv
To

1. The Director of Adi Dravidar Welfare,
Chepauk, Chennai 600 005.

2. The District Adi Dravidar and Tribal
Welfare Officer,
Perambalur, Perambalur District.

+1cc to Mr.P. Rajesh, Advocate, S.R.No.71815
+1cc to the Government Pleader, S.R.No.72066

mv (CO)
md(22/12/2016)

W.P. No. 31674 of 2016



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