

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.39669 of 2016

and W.M.P.No.33939 of 2016

T.Vijayaraj Petitioner

vs.

1.The Sub Collector,
Gobichettipalayam,
Erode District.

2.The Tahsildar,
Taluk Office, Bhavani. Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus to call for the records relating to the first respondent vide Ref. No.264/ 2016/ A4 dated 13.1.2016 and to quash the same and consequently direct the first respondent to revoke the order of suspension dated 13.1.2016.

For Petitioner : Mr.S.Vijayakumar
For Respondents : Mr.R.Venkatesh,
Govt. Advocate.

ORDER

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

2. The petitioner has come up with the present writ petition, challenging the impugned order of the first respondent vide Ref. No.264/ 2016/ A4 dated 13.1.2016 and consequently, to direct the first respondent to revoke the order of suspension dated 13.1.2016.

3. It is the case of the petitioner that he joined in the revenue department as Village Administrative Office through TNPSC on 8.2.2013 and he was allotted to Gobichettipalayam Division, Erode District and thereafter, he was transferred to Paruvachi Village, Bhavani Taluk, Erode District. While so, a trap was laid on 12.1.2016 by the Vigilance and Anti Corruption Department for the alleged demand and acceptance of bribe on the complaint given by one N.Karuppa Gounder and the petitioner was placed under suspension by the order of the first respondent dated 13.1.2016. The Vigilance and Anti Corruption Department initiated action against the petitioner under the provisions of Prevention of Corruption Act and lodged FIR on 11.1.2016 under Section 7 of the said Act. However, till date, no final report has been filed and the said criminal case is in cold storage. Therefore, he approached the first respondent by submitting a representation dated 27.2.2016 requesting him to review the order of suspension. Since the said representation was not considered, he approached this Court by filing a writ petition in W.P.No.19124 of 2015 and this Court by order dated 7.6.2016, directed the first respondent to dispose of his representation dated 27.2.2016. In spite of the same, the first respondent has not passed any order. Hence, the petitioner has come up with the present writ petition, challenging the order of suspension passed by the first respondent.

4. Though the petitioner has sought for a larger relief, at the time of arguments, learned counsel appearing for the petitioner submitted that in similar circumstances, this Court, in W.P.No.17478 of 2014 dated 10.3.2015, by relying upon the judgment of the Hon'ble Supreme Court reported in 2015 (2) SCALE 432 - Ajay Kumar Choudhary v. Union of India through its Secretary and another, directed the respondent therein to consider the representation of the petitioner therein. Hence, following the same, similar order could be passed in this writ petition also.

5. I have also heard the learned Government Advocate, who has taken notice on behalf of the respondents.

6. Keeping the submissions made on either side, I have carefully gone through the materials available on record.

7. The relevant portion of the order dated 10.3.2015 passed by this Court in W.P.No.17478 of 2014 is usefully extracted hereunder:-

" 2. Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

3. The Supreme Court in Ajay Kumar Choudhary v. Union of India through its Secretary and another reported in 2015 (2) SCALE 432 has observed that suspension order should not extend beyond the period of three months.

4. The application submitted by the petitioner for review of suspension was rejected only on the ground that criminal case is pending. In view of the judgment of the Hon'ble Supreme Court cited supra, I am of the view that the matter requires fresh consideration by the first respondent.

5. In the result, the impugned order is set aside and the matter is remitted to the first respondent for fresh consideration. The petitioner is permitted to make a fresh representation. The first respondent is directed to consider the representation on merits and in the light of the observation made by the Hon'ble Supreme Court in the judgment referred to above. Such exercise shall be completed within a period of three months from the date of receipt of representation."

In this case, the petitioner is under suspension for a period of ten months. Further, in the criminal case, till date, no charge sheet has been filed.

8. In view of the above facts and circumstance of the case, though the petitioner prayed for a larger relief, instead of giving such a positive direction, I am of the opinion, it would be appropriate to direct the respondents to consider the case of the petitioner in the light of the judgment of the Hon'ble Supreme Court reported in 2015 (2) SCALE 432 - Ajay Kumar Choudhary v. Union of India through its Secretary and another.

9. Accordingly, without going into the merits of the claim made by the petitioner, the petitioner is directed to give a fresh representation to the first respondent along with a copy of this 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 first respondent is directed to consider the same and pass appropriate orders, on merits and in accordance with law and

also in the light of the judgment of the Hon'ble Supreme Court reported in 2015 (2) SCALE 432 - Ajay Kumar Choudhary v. Union of India through its Secretary and another, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbi

To

- 1.The Sub Collector,
Gobichettipalayam,
Erode District.
- 2.The Tahsildar,
Taluk Office, Bhavani.

+lcc to Mr.S. Vijayakumar, Advocate, S.R.No.66614
+lcc to the Government Pleader, S.R.No.67086

br(CO)
md(28/11/2016)

W.P.No.39669 of 2016

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