

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.4737 of 2016

K.Arumugam

..Petitioner

-Vs-

1.The District Collector
Namakkal District
Namakkal.

2.The Thasildar,
Namakkal
Namakkal District

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondents to consider the petitioner's representation dated 13.01.2016 in accordance with law.

For petitioner : Mr.C.D.Johnson

For respondents : Mr.A.Kumar, Spl.G.P.

O R D E R

The petitioner viz., K.Arumugam was serving as Village Assistant in Tholur Panchayat, Namakkal. For the occurrence dated 15.06.2006, a case in Crime No.241/08 under Sections 294(b), 324, 307 and 302 of the Indian Penal Code was registered by the Inspector of Police, Mohanur Police Station and the case was committed by the Judicial Magistrate No.II, Namakkal, after framing charges under Section 294(b), 307 r/w. 34 and 302 r/w.34 IPC to Court of Sessions viz., the Principal Sessions Judge, Namakkal, wherein, the petitioner (A-2) was found guilty for the offence u/s.324 IPC and convicted and sentenced to pay a fine of Rs.2500/-, in default to undergo simple imprisonment for 6 months, by judgment dated 23rd November, 2009. As against the said judgment, the petitioner preferred Criminal Appeal No.614 of 2010 before this Court.

2. Learned counsel for the petitioner submitted that the petitioner has given a representation dated 13.01.2016 to the 1st respondent seeking to revoke the suspension order passed by the 2nd respondent dated 17.06.2008 stating he is not at all connected with the said offence and he is the sole bread winner of the family.

3. The contentions raised by the petitioner are no longer res integra. In identical circumstances, the Supreme Court in Deputy Director of Collegiate Education (Administration), Madras Vs. S.Nagoor Meera reported in 1995 (3) SCC 377, held as follows:-

"once a government servant is convicted of a criminal charge, not to wait for the appeal or revision, as the case may be. If, however, the government servant-accused is acquitted on appeal or other proceeding, the order can always be revised and if the government servant is reinstated, he will be entitled to all the benefits to which he would have been entitled to had he continued in service. The other course suggested, viz., to wait till the appeal, revision and other remedies are over, would not be advisable since it would mean continuing in service, a person who has been convicted of a serious offence by a criminal court. It should be remembered that the action under clause (a) of the second proviso to Article 311(2) will be taken only where the conduct which has led to his conviction is such that it deserves any of the three major punishments mentioned in Article 311(2). "

4. In view of the above, since the petitioner has suffered conviction as above, the request made by the petitioner cannot be countenanced by this Court. Accordingly, the writ petition stands dismissed. No costs.

सत्यमेव जयते

Sd/-

Asst.Registrar (AS)

/true copy/

Sub Asst. Registrar

nvsri

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To

1.The District Collector
Namakkal District
Namakkal.

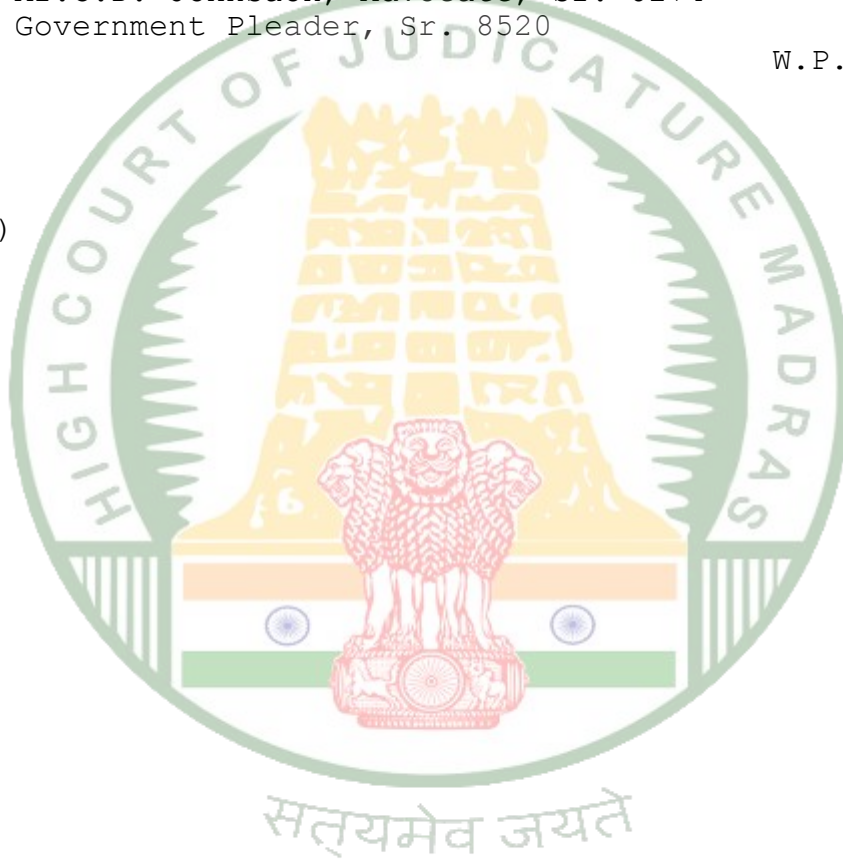
2.The Thasildar,
Namakkal
Namakkal District

1 cc to Mr.C.D. Johnsaon, Advocate, Sr. 8274

1 cc to Government Pleader, Sr. 8520

W.P.No.4737 of 2016

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