

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.5159 of 2017

G.Palani

..Petitioner

Vs

1.The District Collector,
Vellore District,
at Vellore.

2.The Sub Collector,
Thirupattur,
Vellore District.

3.The Tahsildar,
Ambur Taluk,
Vellore District.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to consider the petitioner's representation dated 12.01.2017 and thereby direct the respondents to reinstate the petitioner into service since 30.11.2016 with all service benefits and backwages to the petitioner.

For Petitioner : Mr.B.Sundara Pandiyan
For Respondents : Mr.P.Senthilvel,
Government Advocate

O R D E R

By consent, the writ petition is taken up for final disposal. Mr.P.Senthilvel, learned Government Advocate, accepts notice on behalf of the respondents.

2. The petitioner, while working as Village Administrative Officer, Solur Village and In-charge of Periyankuppam village Ambur Taluk, said to have accepted a sum of Rs.3,500/- by way of illegal gratification from one Rajendiran, S/o Subramani for the purpose of issuing fresh patta transfer and other related activities and in this regard, the Vigilance and Anti-Corruption Department, registered a case in Crime

No.12/2016 on 29.11.2016 for the alleged commission of offence under the provisions of Prevention of Corruption Act, 1988. The petitioner was arrested on 30.11.2010 and was remanded to judicial custody and since his period of incarceration exceeded 48 hours, he was placed under deemed suspension vide proceedings of the 2nd respondent dated 30.11.2016. The petitioner, in this regard, has submitted the representation dated 12.01.2017 prays for revoking/ reviewing the order of suspension. Since, it is yet to be given disposal, he came forward to file this writ petition.

3. Learned counsel for the petitioner has drawn the attention of this Court to the judgment of the Honourable Supreme Court of India reported in 2015 (7) SCC 591 (Ajay Kumar Choudhary v. Union of India) and would submit that the Honourable Supreme Court has laid down the proposition that the currency of suspension order should not extend beyond three months, if within the period, the memorandum of charges/ charge sheet is not served and it is also made clear that a reasoned order must be passed for extension of the suspension. He would further submit that taking note of the above cited judgment, the Government has also issued administrative instructions in Lr.Ms.No.43N/2015-3 dated 26.04.2016 for reviewing the order of suspension.

4. Per contra, Mr.P.Senthilvel, learned Government Advocate would submit, admittedly, since the petitioner has committed the offence of moral turpitude, he was placed under deemed suspension and unless and until the suspension is reviewed by the 2nd respondent, the petitioner, as a matter of right, cannot seek for revocation/review of the order of the suspension.

5. This Court heard the rival submissions and also perused the materials placed on record.

6. Though the petitioner prays for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by him, directs the 2nd respondent to consider and dispose of the petitioner's representation dated 12.01.2017 on merits and in accordance with law in the light of the above cited judgment as well as the administrative instructions and pass orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. The writ petition is disposed of accordingly. No costs.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1.The District Collector,
Vellore District,
at Vellore.

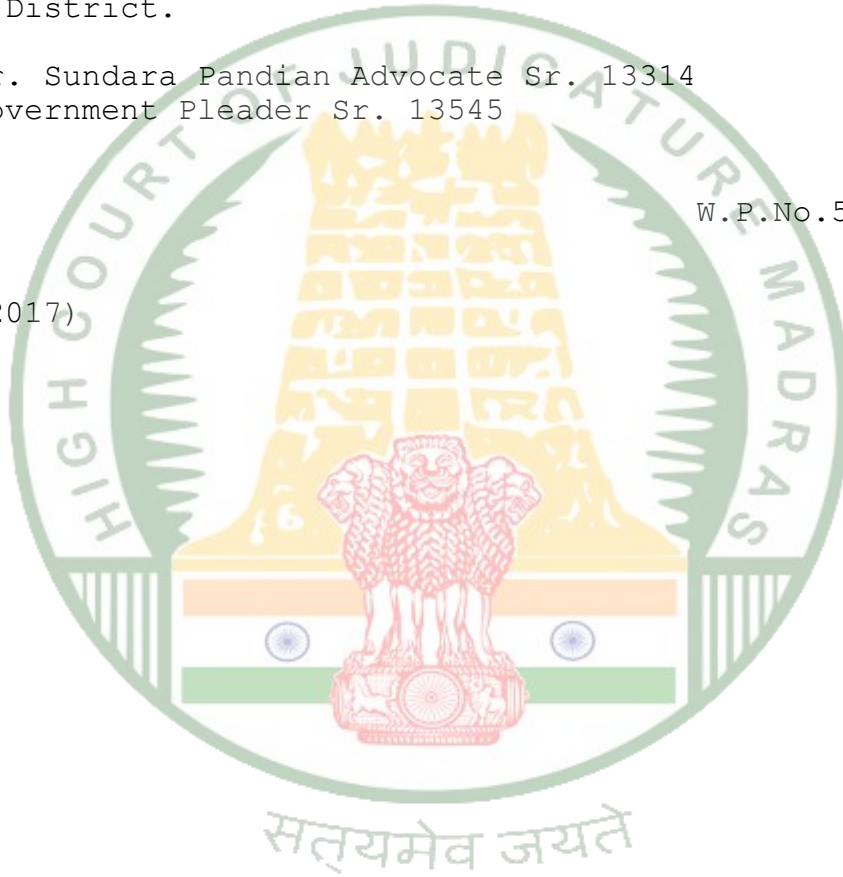
2.The Sub Collector,
Thirupattur,
Vellore District.

3.The Tahsildar,
Ambur Taluk,
Vellore District.

+1cc to Mr. Sundara Pandian Advocate Sr. 13314
+1cc to Government Pleader Sr. 13545

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MG(CO)
Vr(17/03/2017)



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