

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.02.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

WP.No.4234/2017

J.Sasikumar

... Petitioner

Versus

1.The Director of School Education,
Chennai 06.

2.The Director of Elementary Education
DPI Campus, College Road,
Chennai 600 006.

3.The District Elementary Educational Officer,
Cuddalore-01.

4.The Additional Assistant Elementary Educational
Officer, Kattumanarkoil,
Cuddalore District.

... Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for issuance of writ of certiorarified mandamus calling for the records of the file of the 3rd respondent in respect of impugned order in RC.No.0446/B4/2016 dated 06.02.2016 and quash the same and consequently directing the respondents 1 to 3 to reinstate the petitioner.

For Petitioner : Mr.G.Nirmalakrishnan

For Respondents: Mr.V.Anandamoorthy, AGP

ORDER

By consent, the writ petition is taken up for final disposal. Mr.V.Anandamoorthy, learned Additional Government Pleader accepts notice on behalf of the respondents.

2 The petitioner would aver that he got married to one Kalpana on 25.11.2007 and some time thereafter, on 04.02.2016, she lodged a complaint against the petitioner and her in-laws on the file of the Andimadam All Women Police Station for the alleged commission of the offences punishable

u/s.498A and 506[ii] IPC and the case was registered in Cr.No.1/2016 and as a consequence, the 3rd respondent vide proceedings dated 06.02.2016, has placed the petitioner under suspension. The petitioner would aver that the said case, after investigation, has culminated into a positive Final Report, which was taken on file in CC.No.91/2016 on the file of the Court of Judicial Magistrate, Kattumanarkoil, and it is still pending. The grievance expressed by the petitioner is that though he has been placed under suspension as early as on 06.02.2016 and that the case, after investigation, has also resulted in positive Final Report, which was taken on file, there cannot be any impediment on the part of the 3rd respondent to review/revoke the order of suspension and in this regard, the petitioner has also submitted a representation dated 15.12.2016 to the 3rd respondent with a copy marked to the other respondents and despite receipt and acknowledgment, so far no orders have been passed and therefore, the petitioner came forward to file the present writ petition.

3 The learned counsel for the petitioner has drawn the attention of this Court to the decision rendered by the Hon'ble Supreme Court of India, reported in 2015 [7] SCC 291, [Ajay Kumar Choudhary V. Union of India through Secretary and another] and would submit that in the light of the ratio laid down in the above cited judgment, the order of suspension passed against the petitioner has to be revoked / reviewed for the reason that no charge memo has been issued to him so far and prays for appropriate orders.

4 Per contra, Mr.V.Anandamoorthy, learned Additional Government Pleader appearing for the respondents would submit that since the petitioner is arrayed as the sole accused in the above cited case, a fair decision has been taken to place the petitioner under suspension and unless the petitioner gets an order of acquittal, he cannot, as a matter of right, plea for revocation of the order of suspension and prays for dismissal of the writ petition.

5 The Court has considered the rival submissions and also perused the materials placed before it.

6 The Hon'ble Supreme Court of India, in the above cited decision, has laid down the proposal that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charge/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 contact that he may have and which he may misuse for obstructing the investigation against him. The Personnel and Administrative Reforms Department of the State of Tamil Nadu has also taken note of the above decision and has issued administrative instructions in Letter No.43/N/2015-3 dated 26.04.2016.

7 Though the petitioner has prayed 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 the petitioner, directs the 3rd respondent to take note of the above cited judgment as well as the administrative instructions dated 26.04.2016 and consider the petitioner's representation dated 15.12.2016 on merits and in accordance with law and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

8 The writ petition stands disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

AP
To

- 1.The Director of School Education,
Chennai 06.
- 2.The Director of Elementary Education
DPI Campus, College Road,
Chennai 600 006.
- 3.The District Elementary Educational Officer,
Cuddalore-01.
- 4.The Additional Assistant Elementary Educational
Officer, Kattumanarkoil,
Cuddalore District.

+lcc to Mr.G.Nirmal Krishnan, Advocate Sr.11210
+lcc to the Government Pleader Sr.11458

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srg 8/3/2017