

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.5297 of 2017

S.Sivaprakasam

..Petitioner

Vs

- 1.The Principal Secretary,
Personnel and Administrative Reforms(N) Department,
Fort St.George,
Secretariat,
Chennai - 600 006.
2. The Registrar of Co-operative Societies,
No.170, EVR Periyar High Road,
Kilpauk,
Chennai - 600 010.
3. The Joint Registrar of Cooperative Societies,
District Collectorate Complex, 2nd Floor,
Namakkal Region, Namakkal. ...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 revoke the order of suspension and reinstate the petitioner by considering the petitioner's representation dated 18.11.2016 and pass orders on merits within a stipulated period as fixed by this Court in terms of Circular Letter No.13519/N/2015-1 dated 23.07.2015 issued by the Principal Secretary, Personnel and Administrative Reforms (N) Department, Chennai.

For Petitioner : Mr.R.Ezhilarasan

For Respondent : Mr.T.Girija,
Government Advocate.

O R D E R

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

2. The petitioner, while working as Sub-Registrar, Co-operative Societies (Public Distribution System) Sendamangalam, Namakkal, was also assigned to function as Special Officer of 14 Co-operative Societies including the Society known as K.K.128 Mettur Industrial Employees Co-operative Housing Society Ltd. at Mettur, and with regard to launching of criminal prosecution by CCIW Unit, Salem, for the alleged commission of offence under sections 403, 406, 408, 409, 420, 468, 477-A, 120-B read with 34 IPC, he was arrested and remanded to judicial custody on 06.03.2015 and since the incarceration exceeded 48 hours, he was placed under suspension vide order of the 2nd respondent dated 13.03.2015.

3. Learned counsel for the petitioner would submit that in the light of the ratio laid down by the Honourable Supreme Court in 2015 (7) SCC 591 (Ajay Kumar Choudhary v. Union of India), the order of suspension order should not extend beyond three months. Learned counsel would further submit that on the very same set of charges, the Disciplinary Proceedings came to be initiated and he was also exonerated from the charges and thus, prays for appropriate orders.

4. Per contra, Ms.T.Girija, learned Government Advocate appearing for the respondents would submit that the petitioner is involved in the commission of offence of moral turpitude and taking into consideration, the facts and circumstances, he has been rightly placed under suspension and the criminal prosecution has nothing to do with the disciplinary proceedings and prays for dismissal of the writ petition.

5. This Court has considered the rival submissions and perused the typed set of documents.

6. The Honourable Supreme Court, in the decision reported in 2015 (2) SCALE 432 119 (Ajay Kumar Choudhary v. Union of India) 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. The Government has also issued administrative instructions in Lr.Ms.No.43N/2015-3 dated 26.04.2016 for reviewing the order of suspension.

7. Though this 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 the petitioner either in the writ petition or in the representation, directs the 3rd respondent to consider and

merits and in accordance with law 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

/true copy/

Sub Asst. Registrar

vsi

To

- 1.The Principal Secretary,
Personnel and Administrative Reforms (N) Department,
Fort St.George,
Secretariat,
Chennai - 600 006.
2. The Registrar of Co-operative Societies,
No.170, EVR Periyar High Road,
Kilpauk, Chennai - 600 010.
3. The Joint Registrar of Cooperative Societies,
Distrit Collectorate Complex, 2nd Floor,
Namakkal Region, Namakkal.

+1cc to Mr.R.Ezhilarasan,Advocate sr.13638

+1cc to The Government Pleader sr.14283

सत्यमेव जयते

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rj(co)

ss(7/3/2017)

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