

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.5341 of 2017 & WMP.No.5676/2017

M.Palanisamy

..Petitioner

Vs.

- 1.The Inspector General of Police,
West Zone,
Coimbatore
- 2.The Deputy Inspector General of Police,
Coimbatore Range, Coimbatore
- 3.The Superintendent of Police,
Erode District, Erode
- 4.The Sub Collector,
Gobichettipalayam,
Erode District

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records relating to the impugned suspension order dated 29.11.2016 vide D1/11130/2016 R.O.No.242/2016 passed by the 2nd respondent and impugned suspension order dated 30.11.2016 vide Rc.No.J1/37077/2016 passed by the 3rd respondent and to pass orders within a stipulated period.

For Petitioner : M/s.D.R.Arun Kumar
For Respondents : Mr.P.Sanjai Gandhi, AGP

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ORDER

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

2. The petitioner while working as Sub-Inspector of Police, Kadathur Police Station, Erode District, said to have involved himself in commission of the offences punishable

under sections 294(b), 323, 324 and 355 IPC in Crime No.283 of 2016 registered on 27.11.2016. The petitioner, on account of the registration of the case, was placed under suspension vide impugned proceedings dated 29.11.2016 passed by the Inspector General of Police, West Zone (Incharge) Deputy Inspector General of Police, Coimbatore Range and the said order was also communicated to the petitioner on 30.11.2016 by the 3rd respondent. The petitioner, challenging legality of the order of suspension, has filed this writ petition.

3. The learned counsel for the petitioner would submit that though a period of 3 months has already expired, no charge sheet has been filed in the Criminal Case and no charge memo has been issued to the petitioner as to the initiation of the departmental proceedings and as such, the order of suspension passed against the petitioner is liable to be revoked and further contended that the criminal case is a foisted one.

4. Per contra, Mr.P.Sanjai Gandhi, learned Additional Government Pleader appearing for the respondents would contend that though the period of three months got expired, considering the nature and seriousness of the allegations, the petitioner has been rightly placed under suspension and prays for dismissal of the Writ Petition.

5. This Court has considered revival submissions and also perused the materials placed before it.

6. The Hon'ble Supreme Court of India, in the decision in Ajay Kumar Choudhary Vs Union of India through its Secretary and another reported in 2015 (7) SCC 291 has considered the issue relating to the prolonged suspension and held 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".

7. The said judgment has been taken note of by the Personnel and Administrative Reforms Department of the Government of Tamil Nadu and the said department had also issued administrative instructions in Letter (MS) No.43/N/2015-3 dated 26.04.2016.

8. 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 2nd respondent to consider and dispose of the representation dated 22.02.2017 submitted by the petitioner through proper channel, on merits and in accordance with law and pass appropriate 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.

9. The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1.The Inspector General of Police,
West Zone,
Coimbatore
- 2.The Deputy Inspector General of Police,
Coimbatore Range, Coimbatore
- 3.The Superintendent of Police,
Erode District, Erode
- 4.The Sub Collector,
Gobichettipalayam,
Erode District

+lcc to Mr.D.R. Arun Kumar, Advocate Sr. 13937

सत्यमेव जयते

W.P.No.5341 of 2017

LRS (CO)
VR(16/03/2017)

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