

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2017

CORAM:

THE HON'BLE MR. JUSTICE T. RAJA

W.P. No.5541 of 2017 & W.M.P. No.5885 of 2017

P. Vijayababu

...Petitioner

vs.

The Superintendent of Police (I/c)

Central Prison - I (Convict)

Puzhal

Chennai 600 006

...Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records pertaining to the order passed in 1241/G3/2017 dated 05.02.2017 by the respondent and to quash the same.

For petitioner :Mr. J.N. Naresh Kumar

For respondent :Mr. V. Jayaprakash Narayanan
Special Government Pleader

ORDER

Mr. V. Jayaprakash Narayanan, learned Special Government Pleader, accepts notice for the respondent.

2 This writ petition has been preferred questioning the legality and validity of the order dated 05.02.2017 passed by the respondent, whereby and whereunder, the petitioner has been placed under suspension under Rule 17(i)(e) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules until further orders, on the ground that an enquiry into grave charges against him is contemplated.

3 The allegation levelled against the petitioner is that he was found in possession of a liquor bottle, while he was coming from Puducherry to Tamil Nadu.

4 According to the petitioner, on 04.02.2017, about 4.00 p.m., when he was on his way to Puducherry in a bus for attending his relative's marriage, a quarrel ensued between the public and the Check Post police at Pattanoor Check Post; since the vehicles were standing one by one, the petitioner alighted

along with others and tried to solve the wordy quarrel between them; while so, suddenly, the Check Post policemen inspected the bus in which the petitioner was travelling and found a liquor bottle in his possession, owing to which, the Sub Inspector of Police, Kottakuppam Police Station registered an FIR against the petitioner in Cr. No.85 of 2017 for the alleged offence under Section 4(1)(aa) of the Tamil Nadu Prohibition Act; the petitioner was also arrested by the police and was subsequently released on bail, since the alleged offence was a bailable offence; however, subsequently, he was suspended by the respondent vide order dated 05.02.2017, challenging which, he has preferred this writ petition.

5 The learned counsel for the petitioner contended that when there is no leading and unimpeachable evidence against the petitioner, the order of suspension passed by the respondent is uncalled for; hence, aggrieved by the same, the petitioner has addressed a representation to the respondent on 13.02.2017, through Registered Post, requesting revocation of suspension as no prima facie case has been made out in the FIR and therefore, a direction may be given to the respondent to consider the petitioner's representation dated 13.02.2017.

6 Per contra, the learned Special Government Pleader, placing on record, a copy of the written instructions, sent to him by the respondent, would submit that the petitioner was carrying the following prohibited items:

Neon Lemon Vodka 375 ML-24
King Fisher Strong Beer - 500 ML - 60
King Brandy 750 ML-4
Samara Red Wine 750 ML - 5
Black Gold VSOP Brandy 1000 ML - 4
Original Choice Brandy 180 ML - 24
Neon Vodka 750 ML - 2

7 Therefore, according to the learned Special Government Pleader, a criminal case was registered against the petitioner and consequently, he was arrested and subsequently released on bail; however, as he is involved in IPC offences which are punishable in nature, he has been placed under suspension by order dated 05.02.2017, as against which, the petitioner has made a representation prematurely and therefore, this writ petition is liable to be dismissed.

8 Although this Court finds some substance in the submission made by the learned Special Government Pleader, since the petitioner has already made a representation dated 13.02.2017 to the respondent, the same shall be considered by

the respondent within a period of four weeks from the date of receipt of a copy of this order, on its own merits and in accordance with law.

This writ petition stands disposed of with the above direction. Costs made easy. Connected W.M.P. is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad

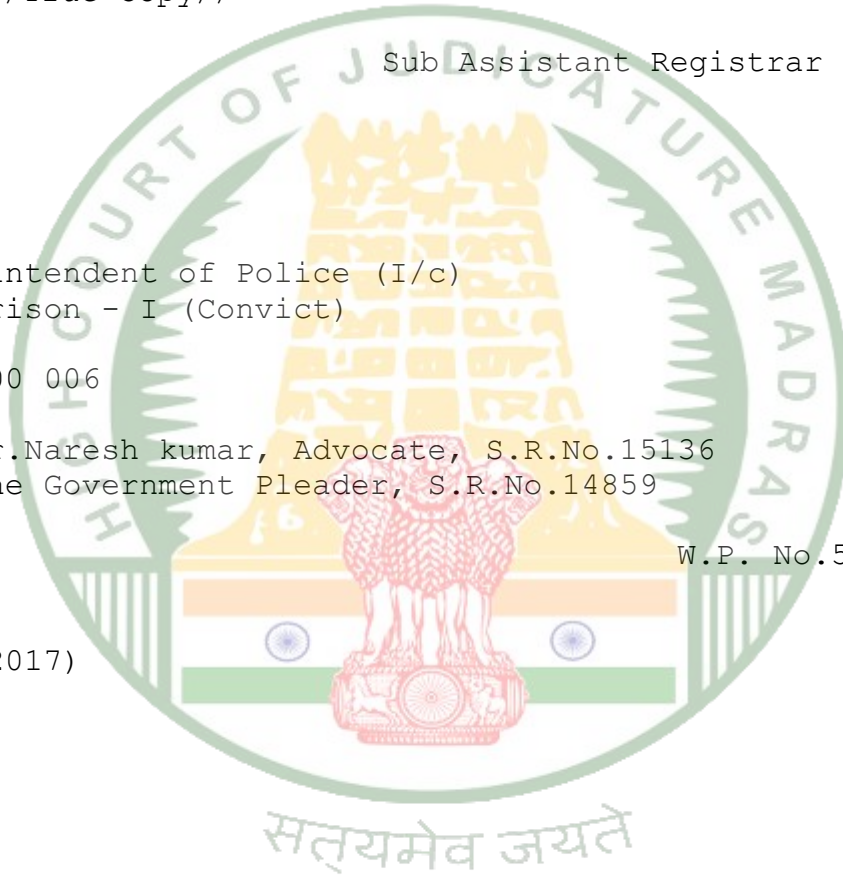
To

The Superintendent of Police (I/c)
Central Prison - I (Convict)
Puzhal
Chennai 600 006

+1cc to Mr.Naresh kumar, Advocate, S.R.No.15136
+1cc to the Government Pleader, S.R.No.14859

W.P. No.5541 of 2017

MV(CO)
RS(10/04/2017)



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