

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.4598 of 2017

S.Ravikumar

..Petitioner

Vs

The Director of Medical Education,
Kilpauk,
Chennai - 600 010

..Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondent to revoke the deemed suspension order passed in proceedings in Ref.No.69090/SCII/1/2016-I dated 21.09.2016 on the file of the respondent.

For Petitioner : Mr.S.Doraisamy
for Mr.K.A.Prabakaran

For Respondent : Mr.P.Sanjai Gandhi,
Additional Government Pleader

O R D E R

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

2. The petitioner, while working as a Nursing Tutor Grade II in Government Kasturba Gandhi Hospital was visited with criminal prosecution in Crime No.58 of 2016 registered by the Central Crime Branch for the alleged commission of offence under Sections 420, 465, 467, 468, 471 r/w 34 IPC and in connection with the said case, he was arrested on 25.08.2016 and remanded to judicial custody and since the period of incarceration exceeded 48 hours, he was issued with an order of deemed suspension dated 21.09.2016. The petitioner had submitted representations dated 02.11.2016, 29.12.2016 and 31.01.2017 praying for revocation of the order of suspension and since no orders have been passed, he came forward to file this writ petition.

3. Mr.S.Doraisamy, learned counsel appearing for the petitioner has drawn the attention of this Court to the contention in the FIR as well as the order dated 29.09.2016

passed by this Court in Crl.O.P.No.21079/2016 granting bail to the petitioner and would submit that the alleged offence is not related to the discharge of his duties and the contents of the FIR would also prima face indicate that the petitioner has been falsely implicated and further pointed out that a registered Power of Attorney was granted in favour of the petitioner as early as on 22.10.2001, based on which, he, in turn, sold the property in favour of his wife by a registered sale deed in Document No.1643/2003 at Sembiam Sub Registrar Office and would further submit that it has got nothing to do with the discharge of his duties and prays for appropriate orders.

4. Mr.Sanjai Gandhi, learned Additional Government Pleader appearing for the respondent would submit that since the petitioner is placed under deemed suspension, unless and until the said suspension order is reviewed by the concerned authority, the petitioner as a matter of right, cannot pray for revocation of the suspension order.

5. This Court, heard the rival submissions and perused the typed set of documents.

6. A perusal of the contents of the F.I.R. as well as the above cited order, granting bail to the petitioner, would prima facie indicate that the offences for which, the petitioner has been arrested and the incarceration are nothing to do with the discharge of official duties and further the said transactions relating to the alleged commission of the offence, relates to the year 2001-2003.

7. The Honourable Supreme Court in the decision reported in 2015 (7) SCC 591 (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.

8. In the light of the above facts and circumstances as well as the ratio laid down by the Honourable Supreme Court in the above cited judgment, this Court directs the respondent to consider the petitioner's representations dated 02.11.2016, 29.12.2016 and 31.01.2017 on merits and in accordance with law and pass orders within a period of two 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. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar

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To

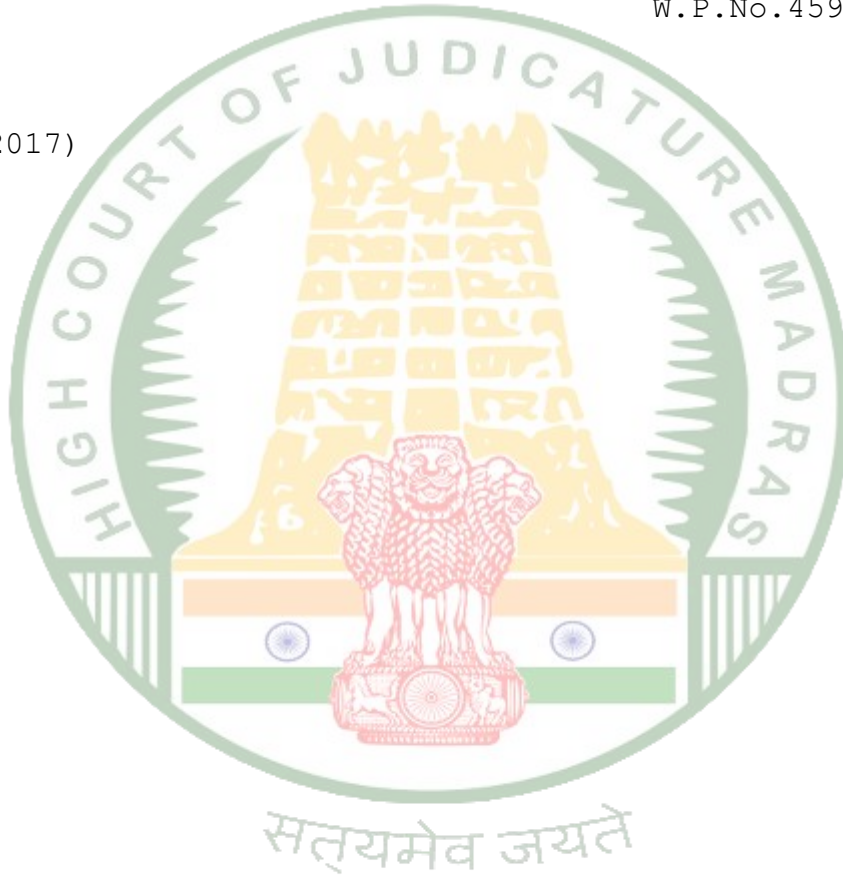
The Director of Medical Education,
Kilpauk,
Chennai - 600 010

+1cc to Government Pleader SE. 1214

+1cc to Mr.S. Doraisamy, Advocate SR. 11694

W.P.No.4598 of 2017

RSY(CO)
VR(08/03/2017)



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