

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.44201/2016 & WMP.No.38042/2016

S.Elumalai

..Petitioner

Vs

1.The Secretary to Government
State of Tamil Nadu, Highways and
Rural Works Department, Secretariat,
Fort St George, Chennai 600 009.

2.The Divisional Engineer [H]
O/o.The Highways Department
Villupuram.

3.The Assistant Divisional Engineer [H]
C&M, Gingee-604202,
Villupuram District.

4.The Assistant Engineer [H]
C&M, Valathy, Melmalayanur Taluk
Villupuram District.

..Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the records pertaining to Pro.No.2205/2016/B3 dated 19.10.2016 issued by the 2nd respondent and quash the same and consequently direct the 2nd to 4th respondents to reinstate the petitioner in service forthwith and pass appropriate orders as per the law.

For Petitioner : Mr.P.Thiagarajan
For Respondents : Mr.K.Dhananjayan, Spl.GP

ORDER

By consent, the writ petition is taken up for final disposal. Mr.K.Dhananjayan, learned Special Government Pleader accepts notice on behalf of the respondents.

2 The petitioner, through selection process, was appointed

Gang Mazdoor in Gingee [H], C&M Sub-Division on 14.11.1997 by the 2nd respondent and his services were regularised by the proceedings of the 2nd respondent dated 30.11.2000. The petitioner would state that he purchased a landed property admeasuring to an extent of 23 cents from his brother on 19.08.1989 through a registered Sale Deed bearing Doc.No.600/1989, registered on the file of the Sub Registrar Office, Avalurpet, and he was also issued with Patta bearing No.92. The petitioner would further state that in respect of the said property, one Ravikumar has lodged a false complaint against the petitioner on 29.08.2016 to the jurisdictional police, based on which, a case in Cr.No.268/2016 was registered against the petitioner for the alleged commission of the offences u/s.294[b], 324 and 506[ii] IPC. The petitioner was arrested on 29.08.2016 and subsequently, enlarged on bail on 01.09.2016. Since the period of incarceration has exceeded 48 hours, the petitioner was placed under suspension, vide impugned order dated 19.10.2016 passed by the 2nd respondent and challenging the legality of the same, the petitioner came forward to file the present writ petition.

3 The learned counsel for the petitioner would submit that since the case is a false and concocted one and that the petitioner was placed under suspension for nearly four months, it is be to reviewed/revoked and also drawn the attention of this Court to the decision of the Hon'ble Supreme Court of India reported in 2015 [7] SCC 291 [Ajay Kumar Choudhary V. Union of India through its Secretary and another].

4 Per contra, Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents, who would submit that in the light of the instructions issued by the Personnel and Administrative Reforms Department in Letter [Ms]. NO.43/N/2015-3 dated 26.04.2016, the petitioner is at liberty to submit a representation to the 2nd respondent for revocation / reviewing the order of suspension.

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

6 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 in this writ petition, permits the petitioner to submit a representation to the 2nd respondent for reviewing/revoking the order of suspension within a period of two weeks from the date of receipt of a copy of this order and the 2nd respondent, on receipt of the same, are directed to consider the said representation on merits and in accordance with law and pass orders within a further period of six weeks thereafter and communicate the decision taken, to the petitioner.

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

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

AP
To

1.The Secretary to Government
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Fort St George, Chennai 600 009.

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4.The Assistant Engineer [H]
C&M, Valathy, Melmalayanur Taluk
Villupuram District.

+1cc to Mr.P.Thiyagaraja, Advocate, SR.No.150/17.
+1cc to Government Pleader Sr.No.233/17.

W.P.No.44201/2016

SV(CO)
GN(23/01/2017)

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