



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 07.09.2017

CORAM
THE HONOURABLE MR.JUSTICE T.RAJA

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W.P.(MD)No.16841 of 2017
and
W.M.P.(MD)No.13432 of 2017

Dr.S.Mohamed Kani,
Medical Officer,
Primary Health Centre,
Pathamadai,
Tirunelveli District.

: Petitioner

Vs.

The Director of Public Health & Preventive Medicine,
Chennai-6.

: Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the suspension order passed by the respondent in R.No.56180/PHC3/A3/2017 dated 17.07.2017 quash the same and consequently direct the respondent herein to regularize the period of suspension with all monetary and service benefits to the petitioner.

For Petitioner

: Mr.R.Janakiramulu

For Respondent

: Mr.R.Karthikeyan
Additional Government Pleader

O R D E R

By consent of both parties, the writ petition itself is taken up for final disposal.

2.The petitioner is serving as an Assistant Surgeon in the Primary Health Centre, Pathamadai, Tirunelveli District. However, he has been placed under suspension on 17.07.2017 by the respondent on the allegation that he had been an absconding accused in Crime No.81 of 2017, on the file of the Inspector of Police, Pathamadai Police Station, Cheranmahadevi Circle, for the alleged offences under Sections 465, 468, 471, 472, 473 and 420 IPC, which was registered on 16.06.2017, on the complaint made by Dr.Selvakumar, Senior Assistant Surgeon, Government Hospital, Pathamadai.

<https://hcservices.ecourts.gov.in/hcservices/>
The allegation made in the FIR is that one Arumugam approached the defacto complainant, Dr.Selvakumar on 12.06.2017



showing a 'Life Certificate' said to have been issued by the defacto complainant to one S.Durairaj and requested him to issue a similar 'Life Certificate'. The defacto complainant has immediately given a complaint on 16.06.2017, alleging that the said 'Life Certificate' prepared with signature is a forged one and with a fabricated official seal. But, there is no such specific complaint against the petitioner. The said S.Durairaj was arrested on 17.06.2017, on the ground that he had implicated accused 2 to 5. The respondent came forward to pass the impugned order of suspension against the petitioner without there being direct connection to the petitioner with the alleged offences.

4.The learned counsel for the petitioner referring to the order of anticipatory bail granted by the learned Sessions Court, Tirunelveli on 22.06.2017 in Cr.M.P.No.2757 of 2017, submitted that on the premises that the investigation revealing that A1 to A5 fabricated the documents, A5 who is the petitioner herein working in Primary Health Centre in Pathamadai, has not taken effective steps to prevent the misuse of seals and office documents. The only allegation against the petitioner is that while serving at Primary Health Centre, Pathamadai, he has not taken steps to prevent misuse of seals and the office documents. When the accused have executed a plan in his absence to steal away the official seal kept in his office, the respondent cannot falsely implicate the petitioner. The allegation against the petitioner is that he is also one of the persons facilitating the commission of theft of the official seal. But, there is no case made out for prosecuting the petitioner along with the main accused. The allegation itself shows that he has not taken steps to preserve the official seals and office documents, which is legally not maintainable.

5.The learned Additional Government Pleader appearing for the respondent submitted that when the petitioner is the head of the Primary Health Centre, Pathamadai, he should have been more careful in preserving the official seal. The petitioner, who is arrayed as A5, has been careless in maintaining the official seal and documents which resulted in stealing of the official seal from the office of the petitioner. He further submitted that the aforementioned fact could be the sole reason for placing the petitioner under suspension, who is serving as Assistant Surgeon in the Primary Health Centre, Pathamadai, Tirunelveli District. But, I do not find any involvement of the petitioner in the alleged offence placing the petitioner under suspension.

6.Therefore, this Court is of the *prima facie* view that the order of suspension is based on mere surmises and presumptions and it cannot stand for any good reason. Hence, the respondent is directed to reinstate the petitioner in service. The petitioner is also directed to cooperate with the investigation at the time of enquiry.



7. With these observations, the writ petition stands allowed. No Costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (Writs)
/True copy/

Sub Assistant Registrar

To

The Director of Public Health and Preventive Medicine,
Chennai-6.

+1cc to Mr. V. JANAKIRAMULU, Advocate, SR. 77276

+1cc to M/S. Special Government Pleader, SR. 77642

W.P. (MD) No. 16841 of 2017
07.09.2017

MRN/MR

KK/SV MMS/SAR 2/23.10.2017/ 3P- 4C/