

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 30.11.2018

CORAM

THE HON'BLE DR. JUSTICE S.VIMALA

Writ Petition No.11888 of 2018
& WMP No.13881 of 2018

M.Ramkumar

.. Petitioner

- Vs -

- 1 The District Collector, Kanchipuram Dist
 - 2 The Personal Assistant (Development) to The District Collector , Kanchipuram Dist
 - 3 The Block Development Officer Walajabad Panchayat Union, Kanchipuram Dist.
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing the respondents 1 and 2 to consider the representations of the petitioner dated 19.02.2018 and 06.03.2018 and revoke the order dated 09.10.2017 suspending the petitioner from service.

For Petitioner : Mr. T.Sathiyamoorthy
For R-1 & R-2 : Mr. R.S.Selvam, Govt. Advocate,
For R-3 : Mr. V.Kadhirvelu

O R D E R

This writ petition has been filed by the petitioner seeking for the issuance of a writ of mandamus directing respondents 1 and 2 to consider the representations of the petitioner dated 19.02.2018 and 06.03.2018 and revoke the suspension order dated 09.10.2017.

Brief facts:

2. While the petitioner was working as Panchayat Secretary, Singadivakkam Village, based on a complaint preferred by one Komala, alleging that the petitioner had promised to marry her and subsequently retracted from the promise, the petitioner was arrested on 28.09.2017. Subsequently, the petitioner got released on bail. Thereafter, the first respondent suspended the petitioner from service with effect from 28.09.2017. The petitioner made a representation to the first respondent /

District Collector seeking review of his suspension order. But, the same has not been considered. Hence, the petitioner has filed this writ petition seeking directions to the respondents to consider the representation preferred by him and to restore him in service. Hence, this writ petition.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. The learned counsel appearing for the petitioner would submit that Rule 17 (3) of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, the suspension order has to be reviewed once in three months and as it is not done, the extension of suspension is illegal.

4.1. Needless to point out that, as per the reported decision in the case of Ajay Kumar Choudhary vs Union Of India, Thr. its Secretary & another, in CIVIL APPEAL No. 1912 OF 2015 (Arising out of SLP No. 31761 of 2013), prolonged suspension is illegal. In the said decision, in paragraph 8, it has been observed as follows:-

"8. Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. If it is for an indeterminate period or if its renewal is not based on sound reasoning contemporaneously available on the record, this would render it punitive in nature. Departmental / disciplinary proceedings invariably commence with delay, are plagued with procrastination prior and post the drawing up of the Memorandum of Charges, and eventually culminate after even longer delay."

5. In this case, only criminal case is pending. No departmental proceedings have been initiated. Under such circumstances, the order of suspension is directed to be revoked within a period of two weeks from the date of receipt of a copy of this order.

6. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected WMP is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

srk

To

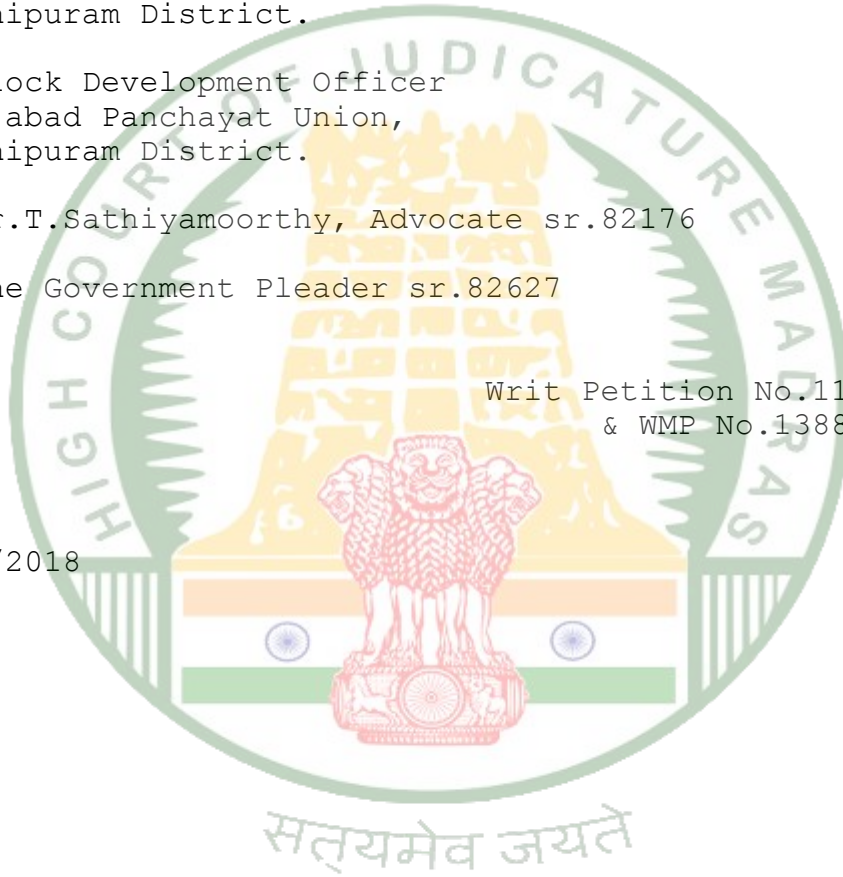
- 1 The District Collector,
Kanchipuram District.
- 2 The Personal Assistant (Development) to The District
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- 3 The Block Development Officer
Walajabad Panchayat Union,
Kanchipuram District.

+1cc to Mr.T.Sathiyamoorthy, Advocate sr.82176

+1cc to the Government Pleader sr.82627

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srg 24/12/2018



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