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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2018

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

W.P.No.32522 of 2018

and W.M.P.Nos.37730,37734 and 37732 of 2018

M.Padmini

... Petitioner

versus

1. The State of Tamil Nadu
Rep. by its Secretary,
Cooperation, Food and Consumer
Protection Department,
Fort St. George, Chennai - 600 009.

2. The Registrar of Co-operative Societies,
170, EVR Periyar Salai,
NVM Maaligai, Kilapuk, Chennai - 10.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of certiorari, to call for the records relating to the order of the first respondent made in G.O.(D)No.111, Cooperation, Food and Consumer Protection (CD2) Department dated 08.05.2017 and to quash the same.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.L.P.Shanmugasundaram,
Special Government Pleader

ORDER

This writ petition has been filed seeking to quash the order of the second respondent made in G.O.(D)No.111, Cooperation, Food and Consumer Protection (CD2) Department dated 08.05.2017.

2. A perusal of the order dated 08.05.2017 reveals that pursuant to an enquiry conducted under Section 81 of the Co-operative Societies Act, a criminal case has been registered under Sections 408, 467, 468, 471, 471(A) of IPC against (A1) G.Vigila, (A2) L.Gopalakrishnan, (A3) M.Ravi, (A4) M.Babu, (A5) Kamalavathi, (A6) K.Jeyakumar, (A7) S.Sudhakran, (A8) M.Padmini (petitioner herein) and (A9) P.Anbrasi.



3. The learned counsel appearing for the petitioner submitted that departmental proceedings initiated has already been dropped, but the criminal prosecution is pending. It is pointed out that pending criminal case, the suspension order issued as against two of the accused persons have been revoked. Insofar as S.Sudhakaran (A7) is concerned, by the order dated 24.08.2017, the order of suspension has been revoked. Similarly, in the case of P.Anbrasi, the suspension order has been revoked on 24.08.2017. In the said proceedings, the XI Metropolitan Magistrate, Saidapet has granted bail and therefore, the suspension order has been revoked with immediate effect without prejudice to the pending criminal case. It is submitted that charges against all accused persons in the criminal case is one and the same, but, the order of suspension has not been revoked only in the cases of the petitioner.

3.1. It is also contended by the learned counsel for the petitioner that considering the performance in the work, the petitioner herein had been promoted and thereafter, suspension order has been passed. Pending criminal case, when order of suspension of two persons, who are similarly placed, has been revoked, the respondents should have been chosen to revoke the order of suspension in the case of the petitioner also.

4. Perusal of the letter dated 30.07.2018, by which, request of the petitioner for revocation of suspension has been rejected, reveals two reasons.

a) the stage of investigation is not shared by the Investigating Agency in respect of the criminal case;

b) the time limit for revocation of suspension will not be applicable in respect of vigilance/criminal cases.

5. From the above facts, it is clear that pending criminal case is the only reason stated for refusing the revocation of suspension and what made the authorities to revoke the order of suspension in the cases of S.Sudhakaran and P.Anbrasi, against whom also criminal case is pending, is not explained to the Court. The petitioner alone cannot be differently treated. Apart from that, as there is a continuous suspension even after promotion and when the suspension is continued, when in respect of others, the suspension has been revoked, the impugned order cannot be sustained and it is hereby set aside.

6. Hence, the respondents are directed to revoke the order of suspension and if need be, to put her in any non-sensitive post.



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7. In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary, State of Tamil Nadu
Cooperation, Food and Consumer
Protection Department,
Fort St. George, Chennai - 600 009.
2. The Registrar of Co-operative Societies,
170, EVR Periyar Salai,
NVM Maaligai, Kilapuk, Chennai - 10.

+1 cc to Mr.L.Chandrakumar, Advocate SR.No.87059
+1 cc to The Government Pleader, SR.No.87907

W.P.No.32522 of 2018

NM(CO)
CSL/07.02.2019