BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2018

C O R A M

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD)No.18323 of 2018
and
W.M.P.(MD)No.16195 of 2018

Jeganathapandian ... Petitioner

Vs.

1.The Deputy Commissioner,
(Commercial Tax),
Pudukkottai,
Pudukkottai District.

2.The Commercial Tax Officer,
Aranthangi,
Pudukkottai District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in RC.No.2572/2016/A1 dated 21.05.2018 and quash the same as illegal and consequently direct the respondents to review the order of suspension in Proc.No.2572/2016/A1 dated 26.08.2016 within time frame.

For Petitioner : Mr.M.Suresh
For Respondent : Mr.M.Pandia Rajan
Additional Government Pleader

O R D E R

The petitioner seeks for a Writ of Ceriorarified Mandamus to call for the records relating to the impugned order in RC.No.2572/2016/A1 dated 21.05.2018 and quash the same as illegal and consequently direct the respondents to review the order of suspension in Proc.No.2572/2016/A1 dated 26.08.2016 within time frame.

2.The petitioner had been placed under suspension on 24.08.2016 due to the criminal proceedings initiated against him and charged under Sections 147, 148, 294 (b), 343, 324, 506(2), 307 IPC and Sections 3 and 4 of Tamil Nadu Public Property Act, 1992.

3.The Hon'ble Apex Court in a decision reported in *2015 (3) SCC 119 in the case of Ajay Kumar Choudhrary vs. Union of India through its Secretary and another* has held that if the Government servant is placed under suspension, there cannot be a prolonged suspension and the suspension has got to be reviewed periodically, preferably once in three months.

4.Here, in the case on hand, more than one year, the petitioner has been placed under suspension. If the petitioner cannot be placed in the particular post, he can be placed in a non-sensitive post. The contention that the petitioner is placed under suspension without disciplinary action is not a solution to the issue. In case, the petitioner is acquitted in the criminal case, thereafter, disciplinary proceedings may commence and unnecessarily the petitioner will have to be paid wages / allowance even without extracting any work.

5.Hence, this Court is of the view that the suspension of the petitioner need to be reviewed and it is open to the respondent to decide whether the petitioner can be continued under suspension or not. However, this Court makes it clear that the pending of the criminal case is not a bar for disciplinary proceedings. In case the respondent wants to proceed with the Departmental proceedings, they can proceed dehors of the pendency of the criminal case without adjourning the enquiry beyond 7 working days at any point of time.

6. Accordingly, this Writ Petition is disposed of. The respondent is expected to take a decision as to whether the petitioner has to be continued under suspension or the suspension of the petitioner has to be revoked, within a period of one month from the date of receipt of a copy of this order. No costs.

Sd/
Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar(CS-I)

To

1.The Deputy Commissioner,
(Commercial Tax),
Pudukkottai,
Pudukkottai District.

2.The Commercial Tax Officer,
Aranthangi,
Pudukkottai District.

+1cc to Mr.M.SURESH, Advocate, SR.No.82455
+1cc to M/s.Special Government Pleader,SR.No. 82800

W.P.(MD)No.18323 of 2018
04.09.2018

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