

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.03.2019

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.8805 of 2019

and

W.M.P.No.9381 of 2019

V.Umamaheswari

..Petitioner

vs

1.Commissioner of Revenue Administration,
Chepauk, Chennai - 5.

2.District Collector,
Villupuram District,
Villupuram.

3.District Revenue Officer,
Villupuram District, Villupuram

4.Revenue Divisional Officer,
Kallakurichi, Villupuram District.

5.Tahsildar,
Chinnasalem Taluk
Chinnasalem, Villupuram District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the Proceedings in R.c.No.A-2/24347/2018 dated 28.08.2018 on the file of the 3rd respondent herein and quash the same.

For Petitioner : Mr.V.R.Rajasekaran

For Respondents : Mr.R.S.Selvam
Government Advocate

O R D E R

The order of suspension dated 28.08.2018 is under challenge in the present writ petition.

2.The learned counsel for the writ petitioner states that the writ petitioner was working as Senior Revenue Inspector and on account of an allegation of demand and acceptance of illegal

gratification, the writ petitioner had been trapped and arrested on 23.08.2018 by the Villupuram District Vigilance and Anti-Corruption Wing for accepting a bribe amount of Rs.5,000/- from one Tmt.Sumathi, Chinnasalem Taluk for making arrangements to upload the petitioner's husband name in the computer Chitta and to issue the computer Chitta in the name of Radhakrishnan in Patta No.101, Survey No.2/4B 0.08.0 of V.Alambalam Village, Chinnasalem Taluk to her and a criminal case in Villupuram Vigilance and Anti Corruption Wing Crime No.17/2018/AC/VPM has been registered u/s 7 of Prevention of Corruption Act 1988. The writ petitioner was arrested on 23.08.2018 and the case is under investigation.

3.The grievance of the writ petitioner is that she made a representation to the respondents on 31.12.2018 to review the order of suspension and the said exercise has not been done. Thus, the writ petitioner is constrained to move the present writ petition.

4.Undoubtedly, an order of suspension is to be reviewed periodically by the competent authorities, taking note of the facts and circumstances and the status of investigation as well as the developments made in the departmental disciplinary proceedings. However, in the present case, it is too early to issue such a direction to the authorities. The authorities competent has to follow the guidelines in this regard and review the order of suspension periodically. Undoubtedly, the allegation against the writ petitioner is a corruption and therefore, the Courts cannot show any leniency or misplaced sympathy. All corruption cases are to be dealt with iron hand and the authorities competent must vigil in prosecuting such corrupt officials and to proceed with the departmental disciplinary proceedings. However, on initiation of the departmental disciplinary proceedings, the authorities must ensure that the said proceedings are concluded within a reasonable period of time and without causing any undue delay.

5.Suspension is not a punishment. The Discipline and Appeal Rules contemplates, placing an employee under suspension on certain instances. Once, the authorities competent are of the opinion that the complaint or contemplation falls within the ambit of provisions of suspension, then an employee shall be placed under suspension, pending enquiry or on contemplation of charges. Suspension is an interim arrangement to keep an employee/public servant away from the public office, enabling the competent authority to conduct investigation in a free and fair manner.

6.It is to be borne in mind that the authorities competent must review the order of suspension periodically. Prolonged suspension is bad in law. An employee cannot be kept under the

suspension for an unspecified period and such a prolonged suspension would result in financial loss to the State exchequer also. Payment of subsistence allowance for a longer period without extracting work is also undesirable. Contrarily, if the proceedings are unable to be concluded, then the authorities competent shall revoke the order of suspension at a particular point and post the employee in a non-sensitive post, till the conclusion of the criminal case as well as the departmental disciplinary proceedings.

7. There is no bar on the disciplinary authority to continue the departmental disciplinary proceedings during the pendency of the criminal case. In other words, simultaneous proceedings are permissible. If the disciplinary authority is in possession of relevant files and documents enabling the authority to proceed with the departmental disciplinary proceedings, then the same must be continued and the authorities competent shall conclude the enquiry and pass final orders in the departmental disciplinary proceedings.

8. The nature of the criminal case is distinct and different from that of the departmental disciplinary proceedings. Thus, even during the pendency of the criminal case, the authorities competent are empowered to continue with the departmental disciplinary proceedings. In the event of non availability of relevant documents and materials, then a decision shall be taken by the authorities to keep the departmental disciplinary proceedings in abeyance till the disposal of the criminal case. In such circumstances, after the disposal of the criminal case, such authority is empowered to continue with the departmental disciplinary proceedings, even if the criminal proceedings ended in acquittal.

9. An order of acquittal will not automatically exonerate an employee from the departmental disciplinary proceedings. To convict a public servant under the Criminal Court of law, a strict high standard of proof is required. However, no such proof is required for punishing an employee under the Discipline and Appeal Rules. Preponderance of probabilities are enough to punish an employee.

10. This being the distinct and different nature of proceedings, this Court is of the opinion that there is no bar on the part of the disciplinary authority either to continue with the departmental disciplinary proceedings or to keep the disciplinary proceedings in abeyance till the disposal of the criminal case. The facts and circumstances are to be considered independently by the competent authority in each case.

11. In all such circumstances, the competent authority must ensure that the order of suspension issued are periodically

reviewed in the interest of public administration as well as taking note of the grievances of the delinquent officials also.

12.Undoubtedly, in the present case, an allegation of corruption is raised. A regular case under the Prevention of Anti-Corruption Act was registered against the writ petitioner. Thus, the writ petitioner has to participate in the process of enquiry as well as in the criminal trial and establish his innocence or otherwise by producing documents and by adducing evidences.

13.The learned counsel for the writ petitioner states that the representation submitted by the writ petitioner for reviewing the order of suspension is pending before the authorities competent. However, it is for the authorities to consider all the facts and circumstances and take a decision in this regard. The Court cannot issue any direction in this regard, as each case is to be considered based on its own facts and circumstances and with reference to the stage of the respective proceedings.

14.This being the factum, it is for the respondents to review the order of suspension according to the stage of the proceedings and as per the guidelines if any issued by the Government in this regard.

15.With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.Commissioner of Revenue Administration,
Chepauk, Chennai - 5.

2.District Collector,
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5.Tahsildar,
Chinnasalem Taluk
Chinnasalem,
Villupuram District.

+1cc to Mr.V.R.Rajasekaran, Advocate, S.R.No.29410
+1cc to the Government Pleader, S.R.No.31108

W.P.No.8805 of 2019

VSN II (CO)

RRS (24/04/2019)



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