

In the High Court of Judicature at Madras

Reserved on	23.05.2019
Pronounced on	28.05.2019

Coram:

The Hon'ble Mr.Justice **RMT TEEKAA RAMAN**

W.P.No.14675 of 2019

K.Subbiah

..Petitioner

Vs.

1. The Additional Chief Secretary to
Government of Tamilnadu,
Rural Development and Panchayat
Raj (E2) Department, Fort St. George,
Chennai – 600 009

2. The Director of Rural Development
and Panchayatraj (E2) Department,
Panagal Building, Saidapet,
Chennai – 600 015

3. The District Collector,
Development Section,
Coimbatore District
Coimbatore - 641 018

...Respondents

Prayer: Writ Petition filed under Article 226 Constitution of India to issue a Writ of Mandamus permitting the petitioner herein to visit Atlanta, USA from 01.06.2019 to 31.08.2019 to attend the house warming ceremony of the petitioner's son as held by the Hon'ble Apex Court in an identical circumstances made in Civil Appeal No.3802 of 2019 dated 09.04.2019,

subject to giving of undertaking before the Registry of this Court to return on 31.08.2019.

For Petitioner : Mr.K.Rajkumar

For Respondents : Mr.A.N.Thambidurai
Special Government Pleader

ORDER

The petitioner has filed the Writ Petition for issuance of a Writ of Mandamus permitting the petitioner herein to visit Atlanta, USA from 01.06.2019 to 31.08.2019 to attend the house warming ceremony of the his son as held by the Hon'ble Apex Court in an identical circumstances made in Civil Appeal No.3802 of 2019 dated 09.04.2019, subject to submission of undertaking before the Registry of this Court to return on 31.08.2019.

2. The brief facts leading to the filing of the Writ Petition is as follows:

(a) The petitioner, who is a former Assistant Executive Engineer, Sulur Sub Division, Coimbatore District has filed this petition for his urgent visit to Atlanta, U.S.A along with his wife to attend the house warming ceremony of his son, who has purchased a new house at

No.6805, Bluff Heights Dr, Cumming, Atlanta, Georgia, 30328, U.S.A fixed on 13.06.2019 being the auspicious ceremony, the petitioner has to do all customary rites in the new house as per family custom which the petitioner does not want to frustrate his son.

(b) The petitioner is facing departmental proceedings and has been kept under suspension on the last date of his retirement on 31.05.2018 and the departmental proceedings are pending. Even the directions obtained by the petitioner well in advance to complete all the enquiry on or before February 2019 has been disobeyed by the respondents. The petitioner and his wife possesses a valid passport and ten years valid VISA. The entire expenses for the trip from 01.06.2019 to 31.08.2019 is borne by the petitioner's son, as per the letter submitted by him to the District Collector, the third respondent.

3. The learned counsel for the petitioner would contend that in an in an identical circumstances, the Hon'ble Apex Court in Civil Appeal No.3802 of 2019 dated 09.04.2019, the appellant therein was permitted to visit USA and France for a period of 40 days pending disposal of the Disciplinary proceedings.

4. Heard the learned Special Government Pleader on the submissions of the learned counsel for the petitioner.

5. It is seen from the records that the son of the petitioner, viz., S.Karthikeyan is working as a Software Manager in an IT Company, viz., NET Tracer Inc in Atlanta, Georgia in U.S.A. He got married and has a family, he has purchased a house at No.6085, Bluff Heights Dr, Cumming, Atlanta, Georgia out of his hard earning.

6. It is also evident from the records that the petitioner's son wants his new house to be opened by his lovable parents by performing a customary house warming ceremony and fixed the date as 13.06.2019. To attend the said function, the petitioner planned to move to USA on 01.06.2019 and wants to stay till 31.08.2019 so that the petitioner can do all corrective measures in the building for peaceful living.

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7. It is stated that the original charge memo was issued against the petitioner in the year 2011. Though this Court has directed the Department to complete the departmental proceedings by an order

dated 17.09.2018 in W.P.No.24304 of 2018, so far, the respondents have not complied with the order passed by this Court. Furthermore, in respect of another disciplinary proceedings, a TCP Case No.30 of 2011 for the very same set of allegations seems to have been filed against the petitioner and even in that case also, this Court has directed the Disciplinary Authorities to complete the enquiry and pass orders in W.P.No.22998 of 2018 and it appears that till date, the respondents have not complied with the orders of this court. In respect of another case, this Court had already passed an order directing the enquiry to be completed in W.P.No.23747 of 2018 and the same is also not been complied with by the 2nd respondent.

8. It appears that in the Anticipatory Bail Application moved by the petitioner herein, this Court in Crl.O.P.No.19629 of 2018 by an order dated 13.08.2018 granted anticipatory bail on deposit of Rs.50,000/- representing the alleged share of misappropriation by the petitioner and hence this Court is of the view that the Department is not complying with the orders of this Court, as narrated above, in completing the enquiry.

9. The Hon'ble Apex Court in **Civil Appeal No.3802 of 2019** between **Satish Chandra Verma V. Union of India and Others** among other things has held the following:

'We are of the opinion that pendency of departmental proceedings cannot be a ground to prevent the appellant from travelling abroad.

....The appellant shall furnish an undertaking to the Registry of this Court that he will come back on 01.06.2019'

Following the ratio laid down by the Hon'ble Supreme Court mentioned supra and also taking note of the factual position as narrated in the aforesaid paragraphs, I am inclined to grant permission to the petitioner to visit his son in connection with the house warming ceremony at Atlanta in USA. Further, I am inclined to grant permission only for 45 days, commencing from 01.06.2019 to 15.07.2019 and the petitioner shall furnish an undertaking to the Registrar (Judicial) of this Court that he will come back on 15.07.2019 attested by his Advocate on record.

Accordingly, the said Writ Petition is ordered to the limited extent as indicated above. No costs.

28.05.2019

Speaking Order : Yes

Index: Yes

Internet :Yes

Note: Issue order copy on 28.05.2019

ssd

To

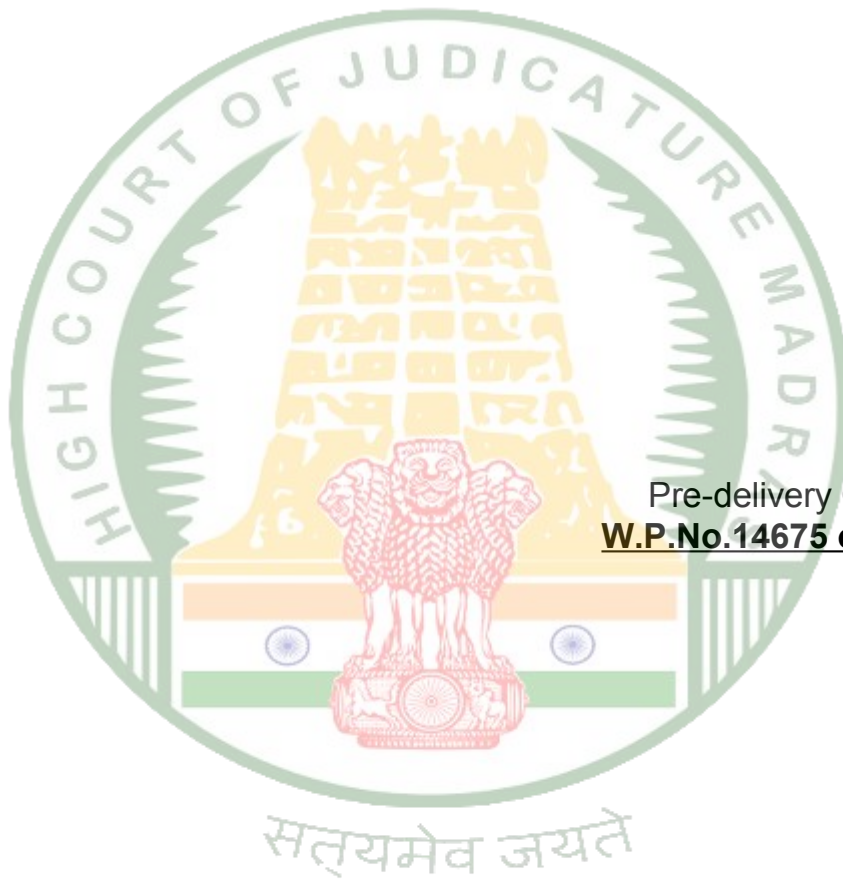
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RMT TEEKAA RAMAN, J.

ssd



Pre-delivery Order in
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