

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.03.2019

CORAM

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

W.P.No.17888 of 2018

and

W.M.P. Nos. 21185 & 21186 of 2018

S.Srinivasan

...Petitioner

Vs.

1.Secretary to Government,
Revenue and Disaster Management Department,
Secretariat,
Chennai - 600 009.

2.The Principal Secretary & Commissioner
of Revenue Administration & Disaster Management,
Chepauk,
Chennai - 600 005.

3.The District Collector,
Collector's Office,
Kancheepuram District - 631 501.

4.The Inspector of Police,
Directorate of Vigilance & Anti-Corruption,
Kancheepuram - 631 501.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records culminating in the Order of Suspension dated 08.12.2017 bearing G.O.Ms.(2D) No.366, Revenue Disaster Management Department, Chennai - 600 009 issued by the respondent and quash the same and direct the 1st and 2nd respondents to reinstate the petitioner in service with all benefits including continuity of service.

For Petitioner : Mr.M.Aravind Subramaniam

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

O R D E R

The impugned order of suspension was issued in proceedings dated 08.12.2017, placing the writ petitioner under suspension, on account of the fact that a criminal case was registered against the writ petitioner under the provisions of the Prevention of Corruption Act, 1988. The allegations against the writ petitioner is that the petitioner demanded and accepted the bribe amount of Rs.5,000/- from the complainant for forwarding the letter to the Collector, Kancheepuram for getting an order from the Collector in connection with the shifting of TASMAC shop. The allegations of the writ petitioner are certainly serious in nature, warranting suspension.

2. However, this Court is of an opinion that keeping an employee under continuous suspension is not desirable.

3. This Court is of an undoubted opinion that revoking the order of suspension at this point of time is not desirable and there cannot be any leniency or misplaced sympathy in respect of the allegations of corruption against the public servant. However, in the present case, the writ petitioner was placed under suspension in 08.12.2017 and now investigation in the criminal case is in progress.

4. It is clarified that mere pendency of the criminal case is not a bar for the continuance of the departmental disciplinary proceedings. If at all, the files, materials and other records are available with the Authorities Competent, then they are at liberty to proceed with the departmental disciplinary proceedings in accordance with the rules in force. Contrarily, keeping an employee under suspension for a prolonged period is bad in law. This apart, if an employee is reinstated during the investigation, the same would cause prejudice to the interest of investigation and there is a possibility of tampering with the witnesses and the records.

5. Further, suspension is not a punishment, it is an interim punishment to keep a public servant away from the office, enabling the authorities to conduct the investigation and enquiry in a free and fair manner. This being the very purpose and object of placing an employee under suspension, this Court is of an opinion that the impugned order of suspension in the present writ petition cannot be quashed, as the writ petitioner is under prolonged suspension and further he is facing the allegations of corruption which is under investigation.

6. Under these circumstances, the respondents have to review the order of suspension periodically taking note of all the facts and circumstances as well as the progress made in the investigations and in the criminal trial.

7. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

pns

To

- 1.Secretary to Government,
Revenue and Disaster Management Department,
Secretariat, Chennai - 600 009.
- 2.The Principal Secretary & Commissioner
of Revenue Administration & Disaster Management,
Chepauk, Chennai - 600 005.
- 3.The District Collector,
Collector's Office,
Kancheepuram District - 631 501.
- 4.The Inspector of Police,
Directorate of Vigilance & Anti-Corruption,
Kancheepuram - 631 501.

+1cc to Mr.M.Aravind Subramaniam, Advocate, S.R.No.28189
+1cc to the Government Pleader, S.R.No.28015

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GJ-II (CO)

RRS (02/05/2019)

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