



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.12.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.35372 of 2019
and WMP No.36190 of 2019

G.Vasanthi

...Petitioner

Vs.

The Principal Secretary to Government,
(Housing and Urban Development Department),
Secretariat,
Chennai 600 009

..Respondent

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of the Respondent in his G.O.3(D) No.1, Housing and Urban Development UD2(1) Department dated 08.01.2019 and to quash the same and consequently, direct the respondent herein to forthwith reinstate the petitioner with all benefits.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.A.Zakir Hussain
Government Advocate

O R D E R

This writ petition has been filed challenging the order of suspension issued by the respondent on 08.01.2019.

2. It is the case of the petitioner that he was working as Deputy Director of Town and Country planning at Dharmapuri and a Criminal case came to be registered in Crime No.10 of 2018, under Section 7(a) of Prevention of Corruption (Amendment) Act, 2018 against him and he was arrested and remanded to judicial custody. Therefore, the suspension order came to be passed under Rule 17(2) (e) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules, with effect from date of detention.

3. The grievance of the petitioner is that the petitioner has been kept under prolonged suspension only on the ground that there is a criminal case pending against the petitioner. Therefore, the petitioner had given a representation to the respondent to revoke the suspension and since the same has not been considered, the present writ petition has been filed before this Court.



4. Mr.Ravi, learned counsel appearing for the petitioner submitted that the petitioner cannot be kept under prolonged suspension and no charge memo has been issued against the petitioner till date. The learned counsel submitted that the suspension will have to be revoked and the respondents can consider posting the petitioner even in a non-sensitive post. The learned counsel in order to substantiate his submissions relied upon the judgement of the Hon'ble Supreme Court in [Ajay Kumar Chowdary v. Union of India], 2015 (7) SCC 291 and also the order passed by this Court in D.Shankar Vs. The State of Tamil Nadu] in 2016 SCC online Mad 28994. The learned counsel by relying upon the above judgments submitted that the petitioner cannot be kept under prolonged suspension only on the ground that an FIR has been registered in a Corruption case.

5. Per contra, Mr.A.Zakir Hussain, learned counsel appearing for the respondents submitted that the petitioner is facing grave criminal charges and therefore, the revocation of suspension cannot be automatic. The learned counsel submitted that the petitioner has already made a representation to the respondent to consider revocation of suspension and appropriate orders will be passed on the said representation.

6. This Court has carefully considered the submissions made on either side and also perused the materials available on record.

7. The petitioner has already made a representation to the respondents on 29.05.2019 and 18.07.2019, seeking for revocation of suspension and therefore, appropriate directions can be given to the respondents to pass orders on the representations.

5. This writ petition is disposed of with a direction to the respondent to consider the representations made by the petitioner dated 29.05.2019 and 18.07.2019 and deal with the same, strictly in accordance with law and pass appropriate orders, within a period of four weeks from the date of receipt of copy of this order. The petitioner is directed to give a fresh representation to the respondent along with representations dated 29.05.2019 and 18.07.2019 and a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

rka



To

The Principal Secretary to Government,
(Housing and Urban Development Department),
Secretariat,
Chennai 600 009

+1cc to Mr.M.Ravi, Advocate SR.No.106420

+1cc to Government Pleader SR.No.106725

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and WMP No.36190 of 2019

MR(CO)
GMY(26/12/2019)