

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, THE CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

C.M.P.Nos.7453, 7546 and 7547 of 2020  
and W.A.SR.No.21904 of 2020

R.ELUMALAI

.. Petitioner/  
Appellant

Vs

- 1 THE DISTRICT COLLECTOR  
VILLUPURAM.
- 2 THE ASSISTANT DIRECTOR (VILLAGE PANCHAYATS)  
VILLUPURAM  
VILLUPURAM DISTRICT.
- 3 THE BLOCK DEVELOPMENT OFFICER  
VANUR PANCHAYAT UNION  
VILLUPURAM DISTRICT.
- 4 V.KASTHURI  
W/O VASUDEVAN  
PRESIDENT, NALLAVUR VILLAGE PANCHAYAT  
VANUR PANCHAYAT UNION  
VILLUPURAM DISTRICT.

5 SAKTHIVEL  
VICE-PRESIDENT  
NALLAVUR VILLAGE PANCHAYAT  
VANUR PANCHAYAT UNION  
VILLUPURAM DISTRICT.

.. Respondents

PRAYER in C.M.P.No.7453 of 2020: Petition under Section 151 of the Code of Civil Procedure to dispense with the production of the certified copy of the order in WP No.4765 of 2013 dated 20.01.2020.

PRAYER in C.M.P.No.7546 of 2020: Petition under Section 151 of the Code of Civil Procedure to direct respondents 1 to 3 to pay the petitioner/appellant sustenance allowance and also the arrears of sustenance allowance as on date and thereby direct the respondents continue to pay the sustenance allowance to the petitioner/appellant pending disposal of the writ appeal.

PRAYER in C.M.P.No.7547 of 2020: Petition under Section 151 of the Code of Civil Procedure to grant interim stay of the impugned order in proceedings in Na.Ka.No.A6/2677/2012-5, dated 7.9.2012 pending disposal of the Writ Appeal.

Prayer in Appeal: Appeal under Clause 15 of the Letters Patent against the order of the learned Single Judge dated 20.1.2020 in W.P.No.4765 of 2013.

For Appellant/  
Petitioner

: Mr.N.Suresh

For Respondents

: Mr.Kamalesh Kannan  
Government Advocate  
for respondents 1 to 3

**JUDGMENT**

(Delivered by the Hon'ble Chief Justice)

Heard learned counsel for the appellant and the learned counsel for the State.

2. Learned counsel for the appellant contends that the learned Single Judge failed to appreciate that the period of suspension was prolonged by the respondents themselves and, therefore, if the respondents have prolonged the suspension period without holding any enquiry, then the allegations that were made against respondents 4 and 5 could not have been made the basis for dismissing the appellant's writ petition and, hence, the judgment of the learned Single Judge deserves to be set aside and the appellant deserves to be reinstated after quashing the suspension order dated 7.9.2012.

3. Learned counsel for the appellant by placing reliance on the judgment in the case of *Ajay Kumar Choudhary v. Union of India*, (2015) 7 SCC 291 urged that when the respondents themselves failed to provide any material relating to the disciplinary proceedings being continued against the appellant, the learned Single Judge committed an error by relying on the contents of the additional counter affidavit filed by the District Collector, which has given no explanation for the cause of delay in the enquiry. Not only this, the allegations were against respondents 4 and 5, and even otherwise, in the absence of any competent enquiry proceedings, there was no justification to continue the appellant under suspension and any denial of service benefits to the appellant is absolutely arbitrary and hit by Article 14 of the Constitution of India.

4. The contention of the learned counsel is that the fourth respondent had been making allegations against the appellant and, therefore, it was the said respondent who was responsible for any such misappropriation of the funds of the village, but without any enquiry and without any specific charge, the appellant was unjustifiably kept under suspension for the past eight years. He, therefore, submits

that the dismissal of the writ petition should be reversed keeping in view the submissions raised and the appeal be allowed.

5. We have considered the submissions raised and a prolonged period of suspension by itself may not be sufficient to call for any interference. To the contrary, this is a case where there were allegations of a criminal case having been filed *vis-a-vis* graft charges against respondents 4 and 5, and the appellant was also indicated to have been involved therein, which is evident from the counter (additional counter affidavit) filed by the District Collector before the learned Single Judge.

6. We have come across a Division Bench judgment in the case of *The Director General of Police v. T.Kamarajan* [Judgment dated 19.11.2019 in W.A.No.3957 of 2019], where such an argument was advanced on the strength of the judgment in *Ajay Kumar Choudhary* case (supra), where after considering the same, the Division Bench referred to the judgment of the Delhi High Court in *Govt. of NCT of Delhi v. Dr.Rishi Anand*, 2017 SCC OnLine Del 10506, particularly paragraph (22) thereof, and held that in cases where graft charges,

including criminal trial are involved, the protection under Article 21 of the Constitution of India *carte blanche* would not be available. We find ourselves in agreement with the said judgment and, therefore, this case in particular on its peculiar facts as discussed by the learned Single Judge in the impugned judgment, does not qualify for any exercise of discretion in favour of the appellant.

7. We enquired from the learned counsel for the appellant that the impugned judgment is dated 20.1.2020 with a clear direction to conclude the proceedings within three months, but the appellant's counsel simply replied that he has no information of any such proceedings, nor the respondents have undertaken any further proceedings, but there is nothing on record to indicate the same. What we find is there does not appear to be any effort on the part of the appellant to have tendered a copy of the judgment before the District Collector for an early disposal of the enquiry as directed by the learned Single Judge, and it appears that after having waited for almost three months, the present appeal was preferred in March, 2020.

8. We, therefore, find no reason to entertain the appeal, and as indicated above, the learned Single Judge does not appear to have committed any error in calling upon the District Collector, Villupuram, to complete the enquiry proceedings within three months. If the enquiry has not yet been concluded, the same shall be concluded by the District Collector without any further delay, as directed by the learned Single Judge.

The appeal SR is consigned to records. C.M.P.Nos.7453, 7546 and 7547 of 2020 are dismissed.

(A.P.S., CJ.) (S.K.R., J.)  
20.07.2020

Index : Yes  
sasi

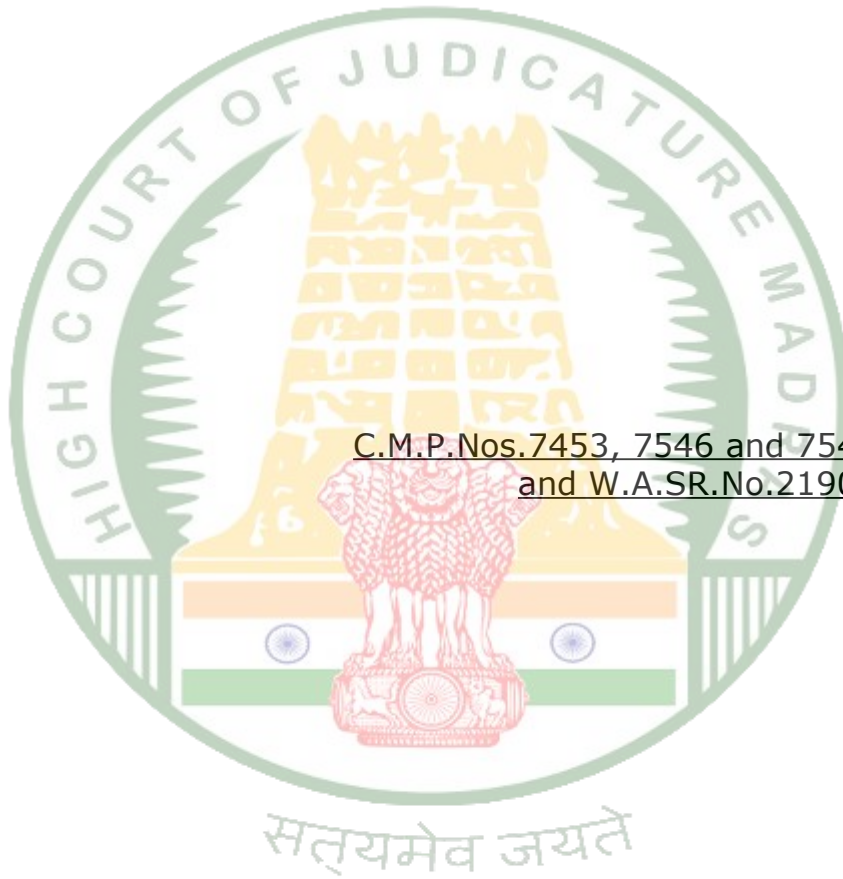
To

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THE HON'BLE CHIEF JUSTICE  
AND  
SENTHILKUMAR RAMAMOORTHY, J.

(sasi)



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