

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2020

CORAM

THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

W.P.No.9556 of 2020

and

W.M.P.No.11671 of 2020

M.Srinivasan

...

Petitioner

Vs.

The Revenue Divisional Officer,
South Chennai, Guindy.

...

Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records on the file of the respondent in Proceedings Rc.No.B2/213/2020, dated 02.02.2020 and quash the same as illegal and irregular.

For Petitioner : Mr.V.Raghavachari

For Respondent : Mr.P.S.Sivashanmuga Sundaram
Special Government Pleader

ORDER

The matter is taken up through web hearing.

2.The case of the petitioner is that he was working as Village Administrative Officer and at the relevant point of time, working at Injambakkam, Sholinganallur Taluk, Chennai District. In regard to issuance of Patta to one private limited company, some irregularities were unearthed against the Officials, including the petitioner herein.

3.In regard to the irregularities, a criminal case was registered in FIR No.4 of 2020, by the jurisdiction police and as a consequence of registration of FIR, the petitioner was also arrested on 31.01.2020. His bail plea was rejected on 06.02.2020 by the Special Metropolitan Magistrate Court (Land Grabbing Cases No.II), Egmore and subsequently on 13.02.2020, the Court of Sessions, Chennai rejected his bail application. Thereafter, this Court granted him bail in CrI.O.P.No.3973/2020, on 24.02.2020.

4. In view of the above, the respondent placed the petitioner under suspension under Rule 17(e)(2) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules, as admittedly the petitioner was in police/judicial custody for more than 48 hours. The suspension order dated 02.02.2020 is being assailed in the present writ petition.

5. The affidavit filed in support of the writ petition contains plethora of facts, attempting to explain as to how the petitioner was falsely implicated in the criminal case. The grounds raised in the writ petition strangely proceed on the same footing bereft of any legal substance. The grounds of challenge in support of the writ petition are extracted hereunder in order to appreciate as to how the challenge to the suspension order could at all engage this Court into a serious adjudication.

"a. That the respondent ought to have seen the contents of the complaint make out no case as against the petitioner.

b. That the respondent should have verified the records before issuing an order of suspension. The existence of a dispute was recorded by the petitioner on it coming to his knowledge.

c. That the petitioner had followed the procedure and rules. On receipt of the online application, the petitioner had made the necessary verification and made a recommendation.

d. That the respondent is aware that the petitioner has no powers to effect changes to the revenue records.

e. That the respondents ought to have seen that no change was effected pursuant to the recommendation made by the petitioner.

f. That no charges have been framed nor possibly one could be framed. Therefore, the detention of 48 hours is no bar for recalling the impugned order".

6. The above so called grounds sloppily incorporated would unequivocally demonstrate that in effect the petitioner is merely attempting to impress upon this Court that he was not involved in the criminal case registered against him and he was wrongly implicated in the said case. Not a single ground if it can be addressed as ground raised by the petitioner is worthy of consideration by this Court for interfering with the order of suspension. This is more so, when the present suspension order is issued under the provisions of the governing Rules for 'deemed suspension', which comes into operation automatically as a consequence of Government Servant being in custody for more than 48 hours. In fact, the suspending authority has no discretion under the Rules to act differently, as an immediate

response to the petitioner's arrest and detention.

7. In the above circumstances, this Court does not find a modicum of substance in challenging the suspension order on the basis of the factual assertion and self serving averments of the petitioner. The entire substratum of the challenge is constructed on the factual averments as if the petitioner version is the gospel truth. In fact, if the writ petition is to be entertained, it amounts to accepting the explanation of the petitioner to the FIR registered against him, leading to a travesty of adjudication in this collateral proceedings under Article 226 of the Constitution of India.

8. Under Article 226 of the Constitution of India, a judicial review is undertaken by the Constitutional Court only on the settled legal principles on the subject matter of challenge and the averments by way of assertion of the interested person, the petitioner herein, can never be a judicious guidance for this Court to intervene in the suspension order. This Court cannot render its decision on the basis of the factual pleas of the petitioner and declare an otherwise legal order passed by the authority concerned, as illegal. More so, in this case when a deemed suspension order is issued, on the basis of the admitted fact that the petitioner was in custody for more than 48 hours, whatever be the explanation of the petitioner as found in the affidavit, the fact remains that the petitioner was in custody for more than 48 hours and the impugned suspension was a natural and inevitable consequence of the petitioner being in custody for more than 48 hours.

9. On the whole, this Court finds that the writ petition is completely misconceived and the grounds raised, as extracted above, do not merit any consideration even to order notice.

Hence, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

mrm/msk

To

The Revenue Divisional Officer,
South Chennai, Guindy.

+1 cc to Government Pleader Sr.No. 25189

W.P.No.9556 of 2020

A.SK(21/08/2020)