



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.02.2020**

CORAM:

THE HONOURABLE **MR. JUSTICE M.S.RAMESH**

W.P. (MD)No.609 of 2020

and

W.M.P (MD) Nos.444 and 445 of 2020

WEB COPY

Chinnapitchai

... Petitioner

/vs./

1.The Revenue Divisional Officer,
Periyakulam,
Theni District.

2.The Tahsildar,
Aundipatti Taluk,
Theni District.

... Respondents

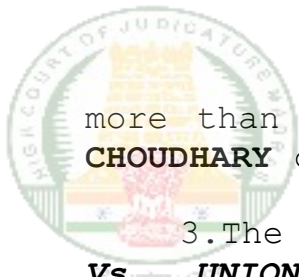
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of suspension passed by the first respondent in Roc No.6154/2018/A2 dated 29.11.2018 and quash the same and consequently directing the respondent to regularize the period of suspension of the petitioner with all monetary and service benefits to the petitioner within a reasonable time in the light of the judgment of the Hon'ble Supreme Court of India reported in 2015(7) SCC 291.

For Petitioner	:	Mr.K.Appadurai
For Respondents	:	Mr.V.Anand Government Advocate

ORDER

The petitioner herein, while serving as Village Assistant, was implicated in a criminal case in Crime No.4 of 2018 on the file of the Vigilance and Anti Corruption, Theni for the offences under Section 7(a) of the Prevention of Corruption Act, 1988 as amended by the P.C (Amendment) Act 2018. In view of his involvement in the criminal case, the first respondent herein was placed under suspension through the impugned order dated 29.11.2018.

2.It is stated that neither the charge sheet in the criminal proceedings nor charge memo with regard to the departmental enquiry has been made, even after the lapse of one year. It is also stated that pursuant to the suspension order, no disciplinary action has been initiated against the petitioner till date. While that being so, the continuance of the suspension against the petitioner, for



more than one year, is against the ratio laid down in **AJAY KUMAR CHOUDHARY** case.

3.The Hon'ble Apex Court in the case of **AJAY KUMAR CHOUDHARY Vs., UNION OF INDIA THROUGH ITS SECRET ANR.**, reported in (2015) 2 SCC 291 had held that the currency of suspension order should not normally extend beyond three months, if within this period the memorandum of charges/charge sheet has not been served on the delinquent officer/employee.

4.In the instant case, though the FIR came to be registered on 27.11.2018, neither the charge sheet has been filed nor a charge memo levelled against the petitioner within the three months period indicated in the aforesaid decision and by applying the ratio laid down in **AJAY KUMAR CHOUDHARY** case, the suspension order ought to have been revoked at that point of time itself. On this sole ground, the petitioner is entitled to succeed.

5.In view of all the above discussions, this Court is of the view that the suspension order dated 29.11.2018 requires to be interfered with. The Hon'ble Apex Court in **AJAY KUMAR CHOUDHARY** case had also observed that when the suspension order is revoked, it would be open to the Government to transfer the concerned person to any department of its offices. In my view, the respondents could be granted this liberty to safe guard the interest of the Government in the prosecution.

6.For all the reasons stated above, the impugned order dated 29.11.2018 in ROC.No.6154/2018/A2 passed by the first respondent is set aside. Consequently, the respondents are directed to reinstate the petitioner immediately, in any case, within a period of one week from the date of receipt of a copy of this order. It is open to the respondents to transfer the petitioner to any other office, if the respondents may choose do so.

7.With the above observations, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



1.The Revenue Divisional Officer,
Periyakulam,
Theni District.

2.The Tahsildar,
Aundipatti Taluk,
Theni District.

+1 CC to M/s.SPL GP (SR-5209[F] dated 07/02/2020)

+1 CC to M/s.K.APPADURAI, Advocate (SR-5266[F] dated 07/02/2020)

Order made in
W.P.(MD)No.609 of 2020

KK/SAR/19.02.2020/3P-5C/