



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.9465 of 2020

and

W.M.P. (MD) No.8564 of 2020

T.S.Jeeva

... Petitioner

Vs.

1) The Director of Town Panchayats,
O/o the Director of Town Panchayats,
MRC Nagar,
Raja Annamalaipuram,
Chennai 600 028

2) The Assistant Director of Town Panchayats,
O/o the Assistant Director of Town Panchayats,
Nagercoil,
Kanyakumari District.

... Respondents

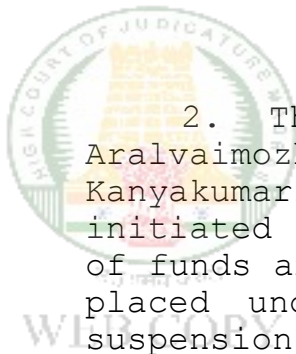
PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to revoke the order of suspension dated 21.02.2020 in the light of the Judgement of the Hon'ble Apex Court in *Ajay Kumar Choudhary Vs., Union of India* reported in (2015) 7 SCC 291 within the time period stipulated by this Court.

For Petitioner : Mr.T.Aswin Rajasimman

For Respondent : Mr.M.Karuppasamy,
Government Advocate

O R D E R

The prayer sought for in this writ petition is for a Writ of Mandamus, directing the 1st respondent to revoke the order of suspension dated 21.02.2020 in the light of the Judgement of the Hon'ble Apex Court in *Ajay Kumar Choudhary Vs., Union of India* reported in (2015) 7 SCC 291 within the time period stipulated by



2. The petitioner was working as Assistant Engineer at Aralvaimozhi Town Panchayat, Nagercoil Zone headquartered at Kanyakumari District. While so, disciplinary proceedings has been initiated against him, for the alleged charges of misappropriation of funds and due to the contemplation of enquiry, the petitioner was placed under suspension on 21.02.2020 and till such time, the suspension continues. Therefore, the petitioner has approached this Court after giving a representation dated 31.07.2020 to revoke the suspension, as the suspension, according to the learned counsel for the petitioner, is a prolonged one, without showing any progress in the disciplinary proceedings. Therefore, the petitioner has filed this writ petition with the aforesaid prayer to consider the representation for revoking such suspension.

3. Mr.M.Karuppusamy, learned Government Advocate appearing for the official respondents would submit that, on 13.05.2020, a charge memo was issued against the petitioner and in response to the same, the petitioner has also given his explanation on 5.08.2020. Therefore, the explanation given by the petitioner is under consideration with the respondents / Disciplinary Authority and if they are not satisfied with the same, they will proceed with the disciplinary proceedings by appointing an Enquiry Officer and within the shortest possible time, enquiry will be conducted and final orders will be passed and therefore, at this juncture, the impugned order need not be revoked. Therefore, the request of the petitioner to revoke the suspension order at the present stage cannot be an acceptable one.

4. I have heard Mr.T.Aswin Rajasimman, learned counsel appearing for the petitioner and Mr.M.Karuppusamy, learned Government Advocate appearing for the respondents and perused the materials placed before this Court.

5. Though the petitioner has been placed under suspension on 21.02.2020, thereafter the charge memo was filed only on 13.05.2020 and a copy of the same was served on the petitioner seeking explanation and the petitioner also in response to the same, has given his explanation on 5.08.2020. Therefore, now the issue is whether the enquiry, if needed, to be conducted in a time frame, and in that case, whether at this juncture, suspension has to be revoked or not.

6. Though the learned counsel appearing for the petitioner has relied upon Rule 8(14) of the Tamil Nadu Municipal Services (Discipline and Appeal) Rules, 1970, where the power has been vested with the Authority to revoke the suspension at any time and he also relied upon the law declared by the Hon'ble Apex Court in **Ajay Kumar Choudhary v. Union of India** reported in (2015) 7 SCC 291, the situation referred in such case may not be available at this juncture in the present case, where charge memo was already filed and explanation also given by the petitioner.



7. Therefore, if the respondents are able to complete the enquiry within a time frame to be stipulated by this Court, certainly there is no need to revoke the suspension at this juncture. However, if the respondents are not able to complete the enquiry and pass final orders on the disciplinary proceedings, despite the cooperation rendered in this regard by the petitioner, at that juncture, certainly the impugned suspension can be reviewed by the respondents.

8. In view of the above, this Court is inclined to dispose of this writ petition with the following order:-

"that the respondents are hereby directed to complete the disciplinary proceedings by conducting an enquiry within a period of three months from the date of receipt of a copy of this order and the petitioner shall cooperate with the respondents for completing the disciplinary proceedings within the time stipulated."

9. It is made clear that, within three months period, if the respondents are not able to complete the enquiry and pass final orders in this regard, for whatever reason, for which, no reason is attributable on the petitioner and certainly, at the end of three months period, the respondents shall review the suspension made against the petitioner by invoking Rule 8(14) referred to above and accordingly, take steps there on.

10. With these directions and observations, this Writ Petition is disposed of. However, there shall no order as to costs. Consequently, connected W.M.P.(MD) No.8564 of 2020 is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To:

- 1) The Director of Town Panchayats,
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- 2) The Assistant Director of Town Panchayats,
O/o the Assistant Director of Town Panchayats,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-14492[F] dated 20/08/2020)

Order made in
W.P. (MD) No.9465 of 2020
Dated:20.08.2020

sts
SDS (23.09.2020) 4P-4C