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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.2816 of 2019 and
WMP No.2137 of 2019

S. Sangeetha

...Petitioner

Vs

1. The District Collector
Thoothukudi District

2. The Block Development Officer
Udankudi Panchayat
Thoothukudi District

3. The Special Officer
Nangaimozhi Village Panchayat
Udankudi Town Panchayat
Thoothukudi 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 relating to the proceedings in Na.Ka.No.Thi3/46/2016 dated 05.10.2016 passed by the second respondent and quash the same and further directing the second respondent to reinstate the petitioner as Panchayat Secretary in Nangaimozhi Village Panchayat, Udankudi Panchayat Union, Veppankaadu, Tuticorin District.

For Petitioner : Mr.R.Maheshwaran

For Respondents : For R1-Mr.C.Mari Chellaiah Prabhu
Additional Government Pleader

For R2 & R3 - M/s.B.Bhagavathi
Government Advocate

O R D E R

This Writ Petition has been filed to call for the records relating to the proceedings in Na.Ka.No.Thi3/46/2016 dated 05.10.2016 passed by the second respondent and quash the same and direct the second respondent to reinstate the



petitioner as Panchayat Secretary in Nangaimozhi Village Panchayat, Udankudi Panchayat Union, Veppankaadu, Tuticorin District.

2. The case of the petitioner is that she was working as Panchayat Secretary in Nangaimozhi Village Panchayat and she has been placed under suspension through impugned order dated 05.10.2016, on the ground that she was involved in misappropriation of funds. The disciplinary action against such charges is now pending. Suspension order came to be passed on 05.10.2016 by the second respondent and the charges were framed on 06.02.2017.

3. Heard both sides and perused the documents.

4. It is stated by the learned counsel for the petitioner that along with the petitioner four other Block Development Officers were also made delinquents for similar charges on various period. The petitioner herein was a Panchayat Secretary, who alone has been suspended from her services, whereas the co-delinquents were not served with suspension orders. The learned counsel has relied upon the judgment of the Honourable Apex Court in the decision reported in (2015) 7 SCC 291, in the case of Ajay Kumar Choudhary Vs Union of India through its Secretary and another has held that the currency of suspension order should not extend more than three months and if at all the extension is required and the same should be supported by the reasoned order.

5. In the instant case, charges came to be framed after a lapse of four months and therefore the respondents were of the view that the suspension was not supported by the reasoned order, which is against the principles laid down in Ajay Kumar Choudhary case (as stated supra). Since the petitioner herein is now under suspension for more than three years and also taking note of the fact that the co-delinquents for their respective relevant period have not been placed under suspension, who are also facing similar charges, this Court is of the view that the ends of justice would be secured by setting aside the order of suspension. In my view, if the disciplinary action is directed to be completed within a time frame, the respondents also will not be prejudiced.

6. In the light of the above, the impugned order in proceedings Na.Ka.No.Thi3/46/2016 dated 05.10.2016 passed by the second respondent is hereby set aside and there shall be a direction to the second respondent to complete the disciplinary action against the petitioner herein as expeditiously as possible in any event within a period of three months from the date of receipt of copy of this order.



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WP(MD) No.2816 of 2019 and

7. With the above direction, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD I)

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/ /2020

Sub Assistant Registrar(CS)

vrn

To

1. The District Collector
Thoothukudi District
2. The Block Development Officer
Udankudi Panchayat
Thoothukudi District
3. The Special Officer
Nangaimozhi Village Panchayat
Udankudi Town Panchayat
Thoothukudi District

+1 CC to MR.R.MAHESHWARAN, Advocate (SR-54[F] dated 02/01/2020)

+1 CC to SPL.GP (SR-289[F] dated 06/01/2020)

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