



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A(MD)No.47 of 2018
and
C.M.P.(MD)No.254 of 2018

The District Revenue Officer,
Theni District,
Theni.

... Appellant/Respondent

Vs.

A.Sheik Oli

... Respondent/writ petitioner

Prayer: Writ Appeal filed under Clause 15 of Letter Patent, to set aside the order dated 27.09.2016 passed by this Court in W.P.(MD) No.18440 of 2016.

Prayer in WP(MD). 18440 of 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records on the file of the respondent in pursuant to the impugned order of suspension passed by him in his proceedings in Roc.No. A5/26857/2014 dated 20.08.2014 and quash the same as illegal and arbitrary and consequently direct the respondent to reinstate the Petitioner in service withal service and monetary benefits in the light of the judgement passed by the Honble Apex court in Ajaykumar Chowdhary vs. Union of India within the time limit that may be stipulated by this Honble court.

For Appellant : Mr.K.P.Krishnadoss
Special Government Pleader

For Respondent : G.Thalaimutharasu



JUDGMENT

(Judgment of the Court was made by **M.SATHYANARAYANAN, J.**)

The official respondent is the appellant. The respondent/writ petitioner has made a challenge to the proceedings of the appellant/respondent dated 20.08.2014, in and by which, his request for revocation of the order of deemed suspension came to be rejected.

2.The respondent/writ petitioner in the affidavit filed in support of the writ petition among other things averred that he joined in the respondent Department as a Junior Assistant on 28.05.2009 and got his promotion as Assistant (Revenue Inspector) on 31.08.2012. While he was performing his duty, he is said to have demanded and accepted illegal gratification for issuance of legal heir certificate in favour of one Kalimuthu and the trap laid by Vigilance and Anti Corruption Department, Theni and he was arrested on 31.08.2012 and subsequently, enlarged on bail. In this regard, a case in Crime No.2 of 2014 was registered for the alleged offence punishable under Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and the investigation of the said case also culminated in charge sheet and the same was taken on file in Special Case No.4 of 2015, on the file of the Court of the Chief Judicial Magistrate, Theni/ Special Court for trial of Prevention of Corruption of Act cases, Theni and according to the petitioner, he is fully co-operating with the expeditious trial of the case.

3. The grievance expressed by the petitioner is that since his suspension is a prolonging one, he prayed for revocation of the order of suspension and since his request was unjustly rejected by the appellant, he has approached this Court by way of the writ petition.

4. When the writ petition was taken up for hearing, reliance has also been placed upon a decision of the Honourable Supreme Court of India reported in **2015 (3) CTC 119** in **AJAY KUMAR CHOUDHARY VS.UNION OF INDIA AND OTHERS**. After taking note of the ratio laid down in the said decision and having found that there is no progress in the enquiry and that the petitioner has been kept under suspension over a period of 2 ½ years, this Court had directed the respondents to revoke the suspension imposed upon the petitioner and to post him in any place, where, he cannot have an access to either to the documents or to the witnesses relating to the criminal case. Making a challenge to the said order, the present writ appeal has been filed by the official respondent.

5. Mr.K.P.Krishnadoss, the learned Special Government Pleader appearing for the appellant would submit that in compliance of the impugned order passed in the said writ petition, the order of



suspension passed against the respondent/writ petitioner has been revoked on 05.10.2017 and now, he has been posted as the Revenue Inspector in the Urban Land Tax Office, Bodinayakkanur and as such, nothing remains for adjudication in the writ appeal.

6. The learned counsel appearing for the respondent/writ petitioner would submit that in light of the subsequent development, this Court may pass appropriate orders.

7. When the matter was listed on 16.07.2020, this Court, having taken note of the fact that S.C.No.4 of 2015 on the file of the learned Chief Judicial Magistrate, Theni/ Special Court for trial of Prevention of Corruption of Act cases, Theni is pending for quite number of years, called for a report from the learned Chief Judicial Magistrate/Special Court for trial of Prevention of Corruption of Act cases, Theni and accordingly, he has submitted his response vide communication dated 07.08.2020 bearing D.No/1130/2020, dated 07.08.2020 addressed to the Additional Registrar General of this Court. A perusal of the said report would disclose that the State/complainant has not chosen to produce the witnesses on time and therefore, there is a tardy and slow progress taking place in the said case. It is to be noted at this juncture, that this is a case of single accused and witnesses are also minimal in number and this Court is unable to find out any plausible reason as to the non-production of the witnesses by the State/complainant for expeditious disposal and hearing of the said case. This Court also comes across very many cases, in which, the cases relating to trap cases are pending for years together without any justifiable reason. Therefore, this Court directs the Director of Vigilance and Anti-Corruption, Chennai to go through the case diary relating to Special Case No.4 of 2015, pending on the file of the learned Chief Judicial Magistrate/Special Court for trial of Prevention of Corruption of Act cases, Theni and file his report as to the slow and tardy progress, especially in the angle of belated production of witnesses and if any infraction/inaction is noted, is at liberty to initiate appropriate proceedings in accordance with law.

8. It also appears from the representation of the learned Special Government Pleader that the petitioner is now accommodated as a Senior Revenue Inspector in the Office of the Urban Land Tax, Bodinayakkanur. It is also to be noted at this juncture that the petitioner, even after visiting with criminal prosecution in his capacity as Assistant (Revenue Inspector), appears to have been given the similar post.

9. In the light of the above facts and circumstances of the case, the appellant is directed to post or accommodate the writ petitioner/respondent in a non-sensitive post and since the disciplinary proceedings are pending for a long time, may expedite the disciplinary proceedings and conclude the same, as expeditiously



10. In the result, this Writ Appeal stands disposed of accordingly, with the above observations. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (crl side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

VS

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

The District Revenue Officer,
Theni District,
Theni.

Copy to

The Director,
Vigilance and Anti-Corruption,
Chennai.

+1 CC to Mr.G. THALAIMUTHARASU, Advocate (SR-14607[F] dated 21/08/2020)

+1 CC to SPL GP (SR-14681[F] dated 21/08/2020)

W.A(MD)No.47 of 2018

and

C.M.P. (MD) No.254 of 2018

19.08.2020

VB (02.09.2020) 4P 5C