



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.01.2020**

CORAM:

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

W.P. (MD) No.26909 of 2019

G.Gomathi Sankar

... Petitioner

/vs./

The District Collector,
O/o., Thoothukudi District Collector,
Korampallam, Thoothukudi 628 101.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the respondent in his proceeding bearing ROC.No.A6/11556/2019 dated 07.05.2019 and quash the same and consequently, direct the respondent to reinstate the petitioner into service with back wages, continuity of service and all other attendant benefits and other monetary benefits.

For Petitioner : Mr.B.Ramkumar Adityan

For Respondent : Mr.M.Jeyakumar
Additional Government Pleader

ORDER

The petitioner herein, while serving as Deputy Tahsildar, was implicated in a criminal case in Crime No.5 of 2019 on the file of the Vigilance and Anti Corruption, Thoothukudi for the offences under Section 7(a) of the Prevention of Corruption Act, 1988 as amended by the P.C (Amendment) Act 2018. The petitioner was also arrested in connection with his involvement in a criminal case. In view of his involvement in the criminal case and his arrest, the respondent herein was placed under suspension through the impugned order dated 07.05.2019.

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 three months. 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,



beyond that period of three months, 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 06.05.2019, the charge sheet has not been filed even after the expiry of three months 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 07.05.2019 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 respondent 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 07.05.2019 in ROC.No.A6/11556/2019 passed by the respondent is set aside. Consequently, the respondent is 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 respondent to transfer the petitioner to any other office, if the respondent may choose do so.

7.With the above observations, the Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmk



To:

The District Collector,
O/o., Thoothukudi District Collector,
Korampallam, Thoothukudi 628 101.

+1 CC to M/s.B.RAMKUMAR, Advocate (SR-3711[F] dated 29/01/2020)

+1 CC to M/s.SPL.GP (SR-3736[F] dated 29/01/2020)

Order made in
W.P.(MD)No.26909 of 2019
Dated: 28.01.2020

JMN(20.02.2020) 3P : 4C