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IN THE HIGH COURT OF JUDICATURE AT MADRAS

D A T E D : 04.08.2021

C O R A M

The Hon'ble Mr. Justice C.SARAVANAN

Writ Petition No.32276 of 2018

(Through Video Conferencing)

P.Sundar

... Petitioner

Vs.

The Commissioner,
Thiruthani Municipality,
Thiruvallur,
Thiruvallur District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records and quashing the impugned order of suspension dated 12.01.2017 passed by the respondent vide Na.Ka.No.118/2017/C-1 and consequently direct the respondent to reinstate the petitioner in the same post at any appropriate place within time frame.

For Petitioner : Mr.K.Ravi Anantha Padmanaban

For Respondent : Mr.P.Srinivas
Standing Counsel

O R D E R

The petitioner was placed under suspension by an order dated 12.01.2017 with effect from 10.01.2017. The allegation against the petitioner was that under the guise of collecting amount towards flag day collection in terms of the target fixed by the District Collector, the petitioner collected a sum of Rs.3,000/- on 10.01.2017 from the applicant who had come and filed an application for change of patta.

2. The learned counsel for the petitioner submits that a criminal proceeding also has been initiated against the



petitioner in Special Case No.3 of 2018 by Chief Judicial Magistrate, Thiruvallur and a charge sheet has also been filed in the above said case. He further submits that the defacto complainant in his deposition dated 21.08.2018 before the Chief Judicial Magistrate Court, Thiruvallur, has deposed that the amount was collected only towards flag day collection. Under these circumstances, the learned counsel for the petitioner submits that the impugned order suspending the petitioner is liable to be quashed,

3. Defending the proceedings of the respondent municipality, the learned counsel for the respondent submits that the flag day is celebrated on 7th December of each year and the targets for collecting the amount is fixed one month before the flag day. In this case, the amount has been demanded on 10.01.1917 which is after the flag day collection period. He further submits that it is very clear that the amount was demanded by the petitioner was only towards bribe for transferring the patta of the applicant/defacto complainant. Therefore, there is no merits in the present writ petition and the same is liable to be dismissed. The learned counsel further submits that the disciplinary proceedings have been kept in abeyance pending the criminal proceedings in Special Case No.3 of 2018 before the Chief Judicial Magistrate Court, Thiruvallur and the out come of the above said criminal proceedings will have bearing on the disciplinary proceedings initiated against the petitioner.

4. Heard the learned counsel for the Petitioner and the learned counsel for the respondents and perused the materials available on record.

5. The petitioner was placed under suspension on 12.01.2017. He is also being prosecuted in Spacial Case No.3 of 2018 where charge sheet has also been filed and thereafter deposition of the defacto complainant Mr.N.Govindharaj has been recorded before the Chief Judicial Magistrate Court, Thiruvallur. The fact that the criminal proceedings are pending for a long time ipso facto does not mean that the Respondent can delay the completion of the Disciplinary Proceedings. In a criminal proceedings, an accused can get an acquittal if the accused is able to establish a reasonable doubt in the case of prosecution. On the other hand, in a Disciplinary Proceedings, a guilt can be established based on the principles of preponderance of probability. If in case, such an officer is later found guilty in the criminal proceedings, the Department can suitably proceed under the relevant Disciplinary Rules applicable to such an employee irrespective of the outcome of the earlier Disciplinary Proceedings.



6. Considering the same, this Court is of the view that instead of quashing the suspension order, it would be appropriate to direct the petitioner to report back to duty before the respondent. The respondent may place the petitioner in any other non sensitive post until the disciplinary proceedings and criminal proceedings are completed. In case the petitioner is found guilty in the disciplinary proceedings appropriate punishment may be imposed without awaiting for the further out come of the criminal proceedings. In case the petitioner is ultimately convicted in the criminal proceedings needless to say that the rules would provide for dealing with the petitioner.

7. The writ petition is therefore disposed by directing the respondent to take back the petitioner into service within a period of 15 days from the date of receipt of a copy of this order in any other non sensitive post where the petitioner may not any opportunity to either indulgence in any corrupt practice or tamper with the evidence in the Disciplinary Proceedings that is pending against the petitioner. No costs.

Sd/-
Assistant Registrar(CS-VI)

// True Copy//

Sub Assistant Registrar

rrg

To

The Commissioner,
Thiruthani Municipality,
Thiruvallur, Thiruvallur District.

+1cc to Mr.K.Ravi Anantha Padmanaban, Advocate, S.R.No.37916

+1cc to the Government Pleader, S.R.No.38796

W.P.No.32276 of 2018

KSM(CO)
SU(26/08/2021)