



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

WEB COPY

W.P(MD)No.1651 of 2021  
and  
W.M.P(MD)No.1505 of 2021

K.Magendran

.. Petitioner

Vs

1.The District Collector,  
Office of the District Collectorate Campus,  
Sivagangai,  
Sivagangai District.

2.The Revenue Divisional Officer,  
Office of the Revenue Divisional Officer,  
Sivagangai,  
Sivagangai District.

.. Respondents

**PRAYER:**Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records relating to the impugned order of suspension passed by the 1<sup>st</sup> respondent in his proceedings in Roc.No.A1/17552-1/2020, dated 08.10.2020 and quash the same as illegal.

|                 |                                                                  |
|-----------------|------------------------------------------------------------------|
| For Petitioner  | : Mr.M.Ajmal Khan,<br>Senior Counsel for<br>M/s.Ajmal Associates |
| For Respondents | : Mr.V.P.M.Vaishnavi,<br>Government Advocate                     |

### ORDER

The petitioner herein was placed under suspension through order dated 08.10.2020 contemplating departmental action. Subsequently on 03.12.2020 a charge memo was issued by the first respondent herein. The petitioner herein is aggrieved by the impugned proceedings.

2.The law relating to the authority of the respondents to keep an employee under prolonged suspension has been laid down by the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary Vs Union of India** reported in **(2015) 7 SCC 291** and the relevant paragraph reads as follows:

"21. We, therefore, direct that the currency of a suspension order should not extend beyond three months if



within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the person concerned to any department in any of its offices within or outside the State so as to server any local or personal investigation against him. The Government may also prohibit him from contacting any person, or holding records and documents till the stage of his universally recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise that the previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time-limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation, departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us.

3.The ratio that emanates from the aforesaid findings among others is that the suspension order should not normally be extended beyond three months, when a charge memo is not served on the delinquent officer and in cases, where the charge memo is served, a reasoned order must be passed for the extension of the suspension period. The counter affidavit filed by the respondents herein, does not refer to any reasoned order being passed, justifying the extension of the suspension order.

4.As a matter of fact, when the writ petition was listed on 23.02.2021, a specific direction was issued to the respondents for the purpose of ascertaining the issuance of the reasoned order and consequent to that this counter affidavit dated 09.03.2021 has been filed without reference to such a reasoned order being passed.

5.In this background, it can only be concluded that the respondents have not justified themselves in extending the petitioner's suspension beyond a period of three months and therefore, it opposed against the ratio laid down by the Hon'ble Supreme Court in **Ajay Kumar Choudhary's** case cited supra and consequently, the petitioner would be entitled to succeed in the writ petition.

6.In the light of the above observation, the proceedings in Roc.No.A1/17552-1/2020, dated 08.10.2020 passed by the first respondent is hereby quashed and the writ petition stands allowed.

<https://hccs.courts.gov.in/hccs-services>



No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

WEB COPY

/ /2021

Sub Assistant Registrar(CS)

dsk

To

1.The District Collector,  
Office of the District Collectorate Campus,  
Sivagangai,  
Sivagangai District.

2.The Revenue Divisional Officer,  
Office of the Revenue Divisional Officer,  
Sivagangai,  
Sivagangai District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate ( SR-9940[F] dated  
10/03/2021 )

+1 CC to M/s.SPL GP ( SR-10218[F] dated 10/03/2021 ), ( SR-10126[F]  
dated 10/03/2021 )

**W.P(MD)No.1651 of 2021**

**09.03.2021**

KK(19.03.2021) 3P 5C