



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 29.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.1655 and 8338 of 2020

and

W.M.P. (MD) .1397 of 2020

and

W.M.P. (MD)Nos.7741 and 7742 of 2020

W.P. (MD)No.1655 of 2020

G.Ashokkumar

... Petitioner

versus

1. The Principal Secretary /
Transport Commissioner,
Chepauk,
Chennai - 5.
2. The Regional Transport Officer,
Pudukottai.
3. The Superintendent of Police,
Pudukottai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records pertaining to the order of suspension passed in Proc.R.No.47427/VB1/2020, dated 23.01.2020 by the first respondent and quash the same and further direct the respondents to reinstate the petitioner.

W.P. (MD)No.8338 of 2020

G.Ashokkumar

... Petitioner

versus

1. The Principal Secretary /
Transport Commissioner,
Chepauk, Chennai - 5.
2. The Regional Transport Officer,
Pudukottai.
3. C.K.Jeyadevaraj,
The Regional Transport Officer,
Pudukottai.



4. N.Karthikeyan,
RTO Enforcement,
Madurai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records pertaining to the charge memo - Memo R.No.36573/B1/2019 dated 18.05.2020 issued by the second respondent and quash the same.

For Petitioner : Mr.T.S.Mohamed Mohideen
in both petitions
For Respondents : Mr.A.Kannan,
in both petitions Additional Government Pleader

COMMON ORDER

Since the petitioner in both the writ petitions are one and the same, both the writ petitions are taken up together for final hearing and disposed of the same by way of a common order.

2. While W.P.(MD)No.1655 of 2020 has been filed challenging the order of suspension dated 23.01.2020 passed by the first respondent, W.P.(MD)No.8338 of 2020 has been filed challenging the charge memo dated 18.05.2020 issued by the second respondent.

3. The order of suspension is challenged mainly on three grounds, namely, (i) no criminal case has been registered against the petitioner; (ii) no charge memo has been issued to the petitioner and (iii) though the petitioner lodged a complaint against one Venugopal, the same has not been considered.

4. Today, when the matters are taken up for hearing, the learned counsel appearing for the petitioner conceded that now, a criminal case has been registered against the petitioner and charge memo has also been issued and the said Venugopal is also now named as co-delinquent and therefore, the above grounds could not arise at this point of time.

5. The learned counsel for the petitioner submits that as per the decision of the Hon'ble Apex Court in **Ajay Kumar Choudhary vs. Union of India**, reported in **2015 7 SCC 291**, suspension order should not extend beyond three months, if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee and if the Memorandum of Charges/Chargesheet is served, a reasoned order must be passed for the extension of the suspension. In this case, though the charge sheet has been registered against the petitioner, the authority concerned has not passed a reasoned order for extension of the suspension.



6. The learned counsel for the petitioner has also relied upon the proceedings of the Additional Chief Secretary/Transport Commissioner, Chepauk, Chennai -5, in proceedings No.7850/T1/2020 (E.O.No.573/2020) dated 23.11.2020, wherein, the suspension order of a co-delinquent, who is having the same set of charges, has been revoked and he has been posted in a different place. Therefore, the same benefit may be extended to this petitioner.

7. The learned Additional Government Pleader submits that the petitioner has wrongly registered 73 vehicles and also issued driving licenses without conducting legal tests and inspection of fitness certificate of transport vehicles and without production of vehicles etc. On verification of performance, i.e. on 07.11.2019, the petitioner tested 121 persons for issuance of fresh driving license within a short period of one hour, i.e. from 1 p.m. to 2 p.m. and on the same day, he inspected 13 accident vehicles for renewal of fitness certificate along with the registration of 113 vehicles. Therefore, the activity of the petitioner in issuing the driving license, without conducting test and renewing fitness certificate and without inspecting the vehicles are in violation of instructions issued in Circular No.43 of 2007 and 62 of 2011. Therefore, it requires a detailed enquiry and pending enquiry, a charge memo dated 18.05.2020 has been issued to the petitioner.

8. Challenging the charge memo dated 18.05.2020, W.P.(MD) No.8338 of 2020 has been filed.

9. In this case, the suspension order has been passed on 23.01.2020 and now, the charge sheet has also been filed as against the petitioner. As per the ratio laid down by the Hon'ble Apex Court in **Ajay Kumar Choudhary vs. Union of India**, reported in **2015 2 SCC 291 reported in (2015) 2 SCC 291**, if the Memorandum of Charges/Chargesheet is served, a reasoned order must be passed for the extension of the suspension. But, the respondents have not taken any step to pass a reasoned order for extension of the suspension period.

10. Following the ratio laid down by the Hon'ble Apex Court in **Ajay Kumar Choudhary vs. Union of India**, reported in **2015 2 SCC 291 reported in (2015) 2 SCC 291**, the respondents are directed to pass orders on the representation of the petitioner for revoking the suspension or to pass a reasoned order for extension of suspension period, if it is required, within a period of four weeks from the date of receipt of a copy of this order.

11. Since the charge memo has been issued in the year 2020



itself, the respondents are also directed to proceed with the departmental proceedings, conclude the same and pass final orders on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

12. With the above directions, both the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

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To

1. The Principal Secretary /
Transport Commissioner,
Chepauk, Chennai - 5.
2. The Regional Transport Officer,
Pudukottai.
3. The Superintendent of Police,
Pudukottai District.

+1 CC to M/s.SPL GP (SR-36763[F] dated 01/12/2021)

+1 CC to M/s.T.S. MOHAMED MOHIDHEEN, Advocate (SR-36649[F] dated 30/11/2021)

W.P (MD) Nos.1655 and 8338 of 2020
29.11.2021

RK(10/12/2021) 4P 6C