



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD)No.10139 of 2021

and

W.M.P (MD)No.7863 of 2021

WEB COPY

G.Raja

... Petitioner

vs.

1.The District Collector,
Sivagangai District.

2.The District Educational Officer,
Devakottai, Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the proceedings of the impugned suspension order, dated 08.10.2020 in Roc.No.A1/17552-3/2020 on the file of the first respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.K.S.Selva Ganesan
Government Advocate

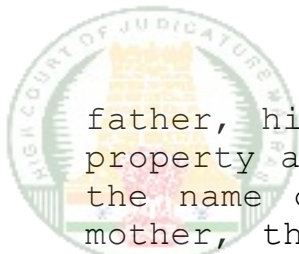
ORDER

The petitioner has filed the present Writ Petition, challenging the order of suspension, dated 08.10.2020, passed by the first respondent.

2.According to the petitioner, he was suspended from service by the impugned order, dated 08.10.2020, in contemplation of enquiry into grave charges.

3.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

4.From the materials available on record and the contention of the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents, it is seen that the petitioner's grandfather was in occupation of Natham property in Paluvloor Village in Survey No.197/13, by constructing a house and obtained electricity connection. After the death of his grandfather, his father was in possession. After the death of his



father, his mother was in possession and enjoyment of the Natham property and renovated the house and the house tax receipt was in the name of his mother, till her death. After the death of his mother, the petitioner is living with his family. The petitioner submitted an application before the Tahsildar for issuance of patta in his name and obtained patta. An objection was raised with reference to the grant of patta, the petitioner filed a Writ Petition in W.P(MD)No.9694 of 2020, to forbear the respondents from evicting him in Survey No.197/13 at Palluvoor Village, Silukkapatti Group, Kalaiyarkovil Taluk, Sivagangai District. The Division Bench of this Court, by an interim order, dated 11.09.2020, raised a question as to how the Tahsildar, Kalaiyarkovil, granted patta to the petitioner. The petitioner is working as B.T Assistant in the Panchayat Union Middle School, Mudikarai. In view of the interim order of the Division Bench of this Court, dated 11.09.2020, the petitioner was suspended from service. A criminal case has also been registered against the Thasildar, Village Administrative Officer and the petitioner in Crime No.645 of 2020 on the file of the Paluovoor Police Station, Sivagangai District. Further, according to the petitioner, he was kept under suspension from 08.10.2020 and the respondents have not given any reason for keeping the petitioner under suspension till date. According to the learned counsel appearing for the petitioner, the Thasildar/K.Magendran filed a Writ Petition in W.P (MD)No.1651 of 2021 before this Court, to quash the order of suspension, dated 08.10.2020 and this Court, by order, dated 09.03.2021, quashed the order of suspension on the ground that no reason was given for extension of suspension.

5.The Hon'ble Apex Court considered the issue of suspension in the Judgment reported in **(2015) 7 SCC 291 [Ajay Kumar Choudhary Vs. Union of India and another]** and held that when an employee is suspended from service pending criminal case or in contemplation of disciplinary proceedings, the suspension order cannot be extended beyond three months, if charge-sheet or charge-memo is not served on the delinquent employee within three months. If charge-sheet or charge-memo is served on the delinquent employee, the order of suspension can be extended beyond three months only by passing reasoned order. The relevant portions of the said Judgment referred to above read 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



in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that 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.

22. So far as the facts of the present case are concerned, the Appellant has now been served with a Charge-sheet, and, therefore, these directions may not be relevant to him any longer. However, if the Appellant is so advised he may challenge his continued suspension in any manner known to law, and this action of the Respondents will be subject to judicial review."

6. As per the Judgment referred to above, when charge-memo or charge-sheet is served on the delinquent employee, it is open to the delinquent to give a representation for revocation of suspension. The order passed in the said representation is subject to judicial review.

7. In the present case, the petitioner has given representation to the first respondent on 13.05.2021, but till date, the respondents have not considered and passed orders on the representation of the petitioner either continuing the petitioner under suspension or revoking the order of suspension. The respondents are continuing the suspension of the petitioner without passing any reasoned order. The extension of suspension, after serving charge-memo or charge-sheet, without passing reasoned order is invalid.

8. For the above reasons, the impugned order, dated 08.10.2020, passed by the first respondent is quashed and the Writ Petition is



allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

ps

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

1.The District Collector,
Sivagangai District.

2.The District Educational Officer,
Devakottai, Sivagangai District.

+1 CC to MR.G.PRABHU RAJADURAI, Advocate (SR-20008[F] dated 23/06/2021)

+1 CC to SPL GP (SR-20024[F] dated 23/06/2021)

**W.P(MD)No.10139 of 2021
22.06.2021**

KM(29.06.2021) 4P 5C