



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:23.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.10295 of 2016

WEB COPY

C.Ravi

... Petitioner

Vs.

1.The Commissioner of Revenue Administration,
Chepauk,
Chennai 600 005.

2.The Commissioner,
Virudhunagar Municipality,
Virudhunagar.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the first respondent herein to consider and pass orders on the petitioner's representation, dated 06.05.2016 given to revoke the suspension order, in the light of the decision of the Supreme Court reported in 2015 (2) Scale Page 432 and as per the Government Circular issued in Letter No.13519/N/2015-1, dated 23.07.2015 within a stipulated time.

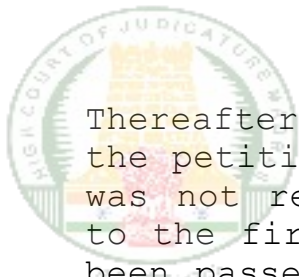
For Petitioner : Mrs.M.Padmavathy
for Mr.Ravi Shanmugam

For Respondents : Mr.M.Muthugeethayan
Special Government Pleader

O R D E R

This writ petition has been filed for a direction to the first respondent to consider and pass orders on the petitioner's representation, dated 06.05.2016, in the light of the decision of the Hon'ble Supreme Court reported in 2015 (2) Scale Page 432 and as per the Government Circular issued in Letter No.13519/N/2015-1, dated 23.07.2015.

2. The case of the petitioner is that he was appointed as Revenue Assistant on 09.08.2011. While he was in service, a case in Crime No.12 of 2012 was registered against him under Prevention of Corruption Act, based on the complaint given by one Kumaran and the allegation against the petitioner is that he demanded a sum of Rs.4,000/- from the de-facto complainant and during the trap, he was arrested by the Vigilance and Anti-Corruption Detachment.



Thereafter, the Commissioner, Virudhunagar Municipality has placed the petitioner under suspension and till date the suspension order was not revoked. Hence, the petitioner has made a representation to the first respondent on 06.05.2016. But till date no order has been passed. Therefore, the petitioner has filed the present writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that though the petitioner was suspended from service on 04.12.2012, on the ground that he demanded a sum of Rs.4,000/-, till date there is no progress. He would further submit that the petitioner has rendered unblemished service and he has been falsely implicated in the criminal case and he has not committed any offence. He would also submit that the very same issue was already decided by the Hon'ble Apex Court in the case of **Ajaykumar Choudhary vs. Union of India and another** reported in **2015 (7) SCC 291** and hence, he seeks direction to the first respondent to consider the petitioner's representation dated 06.05.2016 and to revoke the suspension order.

4. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

5. This Court is unable to go into the merits of the allegations made by the petitioner. So long as the power of suspension is available with the second respondent and it has been exercised by the competent authority, this Court cannot go behind the order of suspension.

6. The Hon'ble Supreme Court in its decision reported in **1990 (3) SCC 60 (Director General and Inspector General of Police, Andhra Pradesh, Hyderabad and others Vs. K.Ratnagiri)** has held in Paragraph No.7 as follows:

"7....The Rule 13(1) empowers the authority to keep the respondent under suspension pending investigation or enquiry into the criminal charges where such suspension is necessary in the public interest. When the first information report is issued, the investigation commences and indeed it has commenced when the respondent was kept under suspension. The order of suspension cannot, therefore, be said to be beyond the scope of Rule 13(1) merely because it has used the word 'prosecution' instead of investigation into the charges against the respondent. A wrong wording in the order does not take away the power if it is otherwise available. The Tribunal seems to have ignored this well accepted principle."



7. Further, it was observed in Paragraph No.3 as follows:
"3....The government may review the case and make further or other order but the order of suspension will continue to operate till it is rescinded by an appropriate authority."

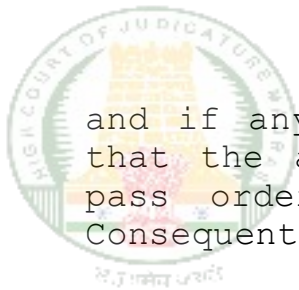
8. Once again, the Hon'ble Supreme Court vide its decision reported in **1994 (2) SCC 617 (State of Haryana Vs. Hari Ram Yadav and others)** held in Paragraph No.10 as follows:

"10....The law is well settled that in cases where the exercise of statutory power is subject to the fulfilment of a condition then the recital about the said condition having been fulfilled in the order raises a presumption about the fulfilment of the said condition, and the burden is on the person who challenges the validity of the order to show that the said condition was not fulfilled. In a case, where the order does not contain a recital about the condition being fulfilled, the burden to prove that the condition was fulfilled would be on the authority passing the order if the validity of the order is challenged on the ground that the condition is not fulfilled...."

9. Further, in Paragraph No.11 of the judgment, it was observed as follows:

"11....There is no averment in the said petition challenging the validity of the impugned order of suspension on the ground that the Governor of Haryana was not satisfied that it was either necessary or desirable to place Respondent 1 under suspension. In the absence of any such averment it must be held that the impugned order was passed after fulfilling the requirement of Rule 3(1) of the Rules in view of the presumption as to the regularity of official acts which would be applicable and the absence of a recital in the order about the Governor being satisfied that it was either necessary or desirable to place respondent 1 under suspension is of no consequence...."

10. In the light of the above, the writ petition filed by the petitioner is misconceived and deserves to be dismissed. Accordingly, the Writ Petition stands dismissed. However, it is open to the petitioner to seek a review of the order of suspension by making a fresh representation before the competent authorities



and if any such representation is made, it is needless to state that the authorities will consider the said representation and pass orders on the same, in accordance with law. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

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/ /2021

Sub Assistant Registrar(CS)

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To

1.The Commissioner of Revenue Administration,
Chepauk,
Chennai 600 005.

2.The Commissioner,
Virudhunagar Municipality,
Virudhunagar.

+1 CC to M/s.M.MUTHUGEETHAYAN, Advocate (SR-7148[F] dated 25/02/2021)

+1 CC to M/s.SPL GP (SR-7324[F] dated 25/02/2021)

W.P. (MD)No.10295 of 2016

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