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W.P.No.9854 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.9854 of 2022

Dr.P.Senthil Murugan

...

Petitioner

versus

The Director of Medical Education,
156, Poonamallee High Road,
Kilpauk, Chennai - 600 010.

...

Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the respondent in Ref.No.73468/SCI/1/2018 dated 13.04.2022 and to quash the same and direct the respondent to reinstate the petitioner in the post of Assistant Surgeon, Government Peripheral Hospital, Periyar Nagar, Chennai – 82.

For Petitioner

: Mr.V.Prakash
Senior Counsel
for M/s.K.Jayasudha

For Respondent

: Mr.L.S.M.Hasan Fizal
Additional Government Pleader



ORDER

This Writ Petition has been filed challenging the order dated 13.04.2022 passed by the respondent under which the petitioner's request for revocation of the suspension was rejected.

2. The brief facts leading to the filing of this Writ Petition are as follows:-

2.1. The CBI AC-III, New Delhi had registered a regular case on 29.05.2018 against the petitioner and others under Section 120B IPC and under Sections 7, 8, 12 and 13 (1)(d) of the Prevention of Corruption Act, 1988. The petitioner was arrested by CBI on 05.09.2018 and he was remanded to judicial custody by the learned Principal Special Judge for CBI Cases, VIII Additional City Civil Court, Chennai. Pursuant to the arrest of the petitioner, the respondent has placed the petitioner under suspension under clause (2) of sub-rule (e) of Rule 17 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules vide its proceedings dated 17.10.2018.

2.2. The CBI has laid its final report on 02.11.2018 and the learned Principal Special Judge for CBI Cases, VIII Additional City Civil



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Court, Chennai and the trial Court has taken cognizance of the same in C.C.No.13 of 2020. The sanction as contemplated under Section 19 of the Prevention of Corruption Act, 1988 was granted by the Director of Public Health and Preventive Medicines, Chennai.

2.3. The petitioner had given a representation on 07.08.2019 to the respondent to revoke the order of suspension of his service under Rule 17(e)(6) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules pending completion of the criminal proceedings in the trial Court. Since the representation was not considered, the petitioner approached this Court in W.P.No.12371 of 2021 requesting for revocation of his suspension order. This Court by its order dated 17.02.2022 in W.P.No.12371 of 2021 directed the respondent to consider the petitioner's representation seeking for revocation of the suspension order in the light of the ratio laid down by the Hon'ble Supreme Court as well as by the decisions of this Court within a period of six weeks. Thereafter, the impugned order dated 13.04.2022 came to be passed by the respondent rejecting the petitioner's representation



seeking for revocation of his suspension order. Aggrieved by the same, the petitioner has filed this Writ Petition.

3. A counter affidavit has been filed by the respondent denying the allegations of the petitioner and in particular he would state in paragraph nos.19, 20 and 21 that being a corruption case and being a serious offence for which CBI has prosecuted the petitioner, the question of revocation of suspension at this stage will not arise as the matter is pending trial before the CBI Court.

4. Heard Mr.V.Prakash, learned Senior Counsel for M/s.K.Jayasudha appearing for the petitioner and Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader appearing for the respondent.

5. The learned Senior Counsel for the petitioner at the outset would submit that the petitioner is arrayed as A-4 in the criminal prosecution. He drew attention of this Court to an order dated 03.02.2022 passed by this Court in W.P.No.9201 of 2020 in the case of E.Sivakumar, who was arrayed as A-6 in the criminal prosecution. Referring to the said



order, he would submit that the learned single Judge had revoked the order of suspension of E.Sivakumar on the ground of prolonged suspension.

6. The learned Senior Counsel for the petitioner also drew attention of this Court to the revocation of the suspension order passed by the respondent with regard to S.Navaneetha Krishna Pandian, who was arrayed as A-5 in the criminal prosecution. He would submit that since the respondent had revoked the suspension for S.Navaneetha Krishna Pandian, the question of continuing with the suspension order for the petitioner will not arise as the nature of charges levelled against all of them is one and the same.

7. However, Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader appearing for the respondent would reiterate the contents of the counter affidavit filed by the respondent and would submit that being a serious offence involving corruption and being a CBI case, the question of revocation of petitioner's suspension at this stage will not arise.



8. This Court has given a careful consideration to the submissions made by the respective learned counsels and also to the respective affidavits filed before this Court.

9. Admittedly, the suspension in respect of two other accused in the criminal prosecution have already been revoked. In respect of one of them, suspension order was revoked by the respondent themselves and in respect of the other by order of this Court dated 03.02.2022 in W.P.No.9201 of 2020. It is an admitted fact that no appeal has been filed by the respondent as against the order dated 03.02.2022 passed in W.P.No.9201 of 2020 in the case of E.Sivakumar, who was arrayed as A-6 in the criminal prosecution. It is also an admitted fact that E.Sivakumar was reinstated into service on 01.04.2022.

10. The learned single Judge while allowing the Writ Petition in W.P.No.9201 of 2020 by following the various Hon'ble Supreme Court decisions has categorically held that prolonged suspension was not valid that too when there is no progress in the criminal case. The final



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report of the Police was taken cognizance by the CBI Court in the year 2020 and the criminal case was numbered as C.C.No.13 of 2020. Since the CBI Court has taken cognizance of charge sheet, the petitioner has been suspended from service ever since 17.10.2018 i.e. for almost more than 4 years. For similar charges, the two other accused, namely, E.Sivakumar and S.Navaneetha Krishna Pandian, suspension orders have already been revoked. Therefore, in view of the prolonged suspension and in view of the fact that the suspension orders have already been revoked for two other accused for the same charges, necessarily the suspension order for this petitioner also will have to be revoked by this Court.

11. In the counter affidavit filed by the respondent, he himself admits the contentions of the petitioner that the suspension orders pertaining to E.Sivakumar as well as S.Navaneetha Krishna Pandian were revoked and that being the case, necessarily the petitioner, who is also similarly charged, his suspension order also will have to be revoked. Therefore, the contentions raised by the respondent in this Writ Petition are rejected.



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12. For the foregoing reasons, the impugned order dated 13.04.2022 passed by the respondent is hereby quashed and the Writ Petition is allowed and the respondent is directed to reinstate the petitioner into service within a period of three (3) weeks from the date of receipt of a copy of this order. No costs.

11.10.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

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To

The Director of Medical Education,
156, Poonamallee High Road,
Kilpauk, Chennai - 600 010.



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ABDUL QUDDHOSE, J.

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