



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.Nos.13891 and 27778 of 2021
and

W.M.P.Nos.14763 and 29347 of 2021

W.P.No.13891 of 2021:

L.Elangovan

...Petitioner

vs.

1. The Director
Rural Development and Panchayat Raj,
Panagal Building,
Chennai - 600 015.
 2. The Additional Chief Secretary
Rural Development and Panchayat Raj (E2) Department,
Secretariat/Fort St.George,
Chennai - 600 009.
 3. The Director General
Rural Development and Panchayat Raj,
Panagal Building, Chennai - 600 0015.
 4. The Commissioner
Rural Development and Panchayat Raj,
Panagal Building,
Chennai - 600 015.
 5. The District Collector
Krishnagiri District.
Krishnagiri - 635 002.
 6. The Deputy Superintendent of Police
Vigilance and Anti-Corruption Department,
Krishnagiri,
Krishnagiri District.
- ...Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining Order of the 2nd Respondent proceedings Memo No.G.O.(2D) No.02, dated 18.01.2021 and quash the same as illegal improper,



incompetent, and ultra-virus and consequentially direct the 2nd Respondent herein to reinstate the Petitioner in the post of District Planning Officer, District Planning Cell, Krishnagiri District with all back wages.

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W.P.No.27778 of 2021:

J.Ramamoorthy

...Petitioner

vs.

1. The Director
Rural Development and Panchayat Raj,
Panagal Building,
Chennai - 600 015.
2. The Additional Chief Secretary
Rural Development and Panchayat Raj (E2) Department,
Secretariat/Fort St.George,
Chennai - 600 009.
3. The Commissioner
Rural Development and Panchayat Raj,
Panagal Building,
Chennai - 600 015.
4. The District Collector
Krishnagiri District.
Krishnagiri - 635 002.
5. The Deputy Superintendent of Police
Vigilance and Anti-Corruption Department,
Krishnagiri,
Krishnagiri District.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining Order of the 2nd Respondent proceedings Memo No.G.O.(2D) No.05, dated 18.01.2021 and quash the same as illegal improper, incompetent, and ultra-virus and consequentially direct the 2nd Respondent herein to reinstate the Petitioner in the post of Overseer Mathur Panchayat Union, Krishnagiri District with all back wages.

For Petitioner : Mr.C.Palanisamy (in both WPs)

For Respondents: Mrs.S.Anitha
Special Government Pleader
(in both WPs)



COMMON ORDER

These writ petitions have been filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order of the 2nd respondent in proceedings Memo No.G.O.(2D) Nos.02 and 05, dated 18.01.2021 respectively and to quash the same as illegal improper, incompetent, and ultra-virus and consequently, to direct the 2nd respondent herein to reinstate the petitioners in the post of District Planning Officer, District Planning Cell, Krishnagiri District and Overseer Mathur Panchayat Union, Krishnagiri District respectively, with all back wages.

2. According to the petitioners, the petitioners were placed under suspension by the 2nd respondent by the proceedings in Memo No.G.O.(2D) Nos.02 and 05, dated 18.01.2021 respectively for the regular case has been registered as against them to grave charges into a criminal conspiracy with fraudulent and dishonest intention to defraud the funds of Government in implementing Indra Awas Yojana Scheme in Nadupatti Panchayat of Krishnagiri District.

3. The learned counsel appearing for the petitioners submitted that for the alleged offence of defraud the funds of the Government committed during the year 2017, a case has been registered by the Deputy Superintendent of Police, Vigilance and Anti-Corruption Department, Krishnagiri District in FIR No.6/AC/2017 under Section 120B, 409, 465, 466, 468, 474, 477A IPC and Section 13(2) r/w 13(1)(C) and Section 13(1)(d) of the Prevention of Corruption Act, 1988. So far, there is no charge sheet has been filed before the concerned jurisdictional Criminal Court. Hence, the petitioners have filed the instant writ petitions before this Court for quashing the said impugned suspension orders.

4. The learned counsel appearing for the petitioners also agree that the petitioners would make a fresh representation to the 2nd respondent along with this order copy for revocation of the impugned suspension order.

5. The learned Special Government Pleader appearing for the respondents would submit that if any such representation being made by the petitioners, the same would be considered by the authority concerned in the light of the decision rendered by the Hon'ble Full Bench of this Court in P.Kannan vs. The Commissioner for Municipal Administration and Others (W.P.Nos.2165 of 2015 and 21628 of 2018 dated 15.03.2022) and pass appropriate orders.

6. In a similar writ petition in W.P.No.12921 of 2021, dated



13.04.2022, this Court at Paragraph No.7 has passed the following order:-

"7. At this juncture, it is pertinent to note that the Hon'ble Full Bench of this Court, has passed order in the case of P.Kannan Vs The Commissioner for Municipal Administration and Others (W.P.Nos.2165 of 2015 and 21628 of 2018 dated 15.03.2022), wherein, it is held as follows:

(i)The judgment of the Apex Court in the case of Ajay Kumar Choudhary, supra, does not lay down absolute proposition of law that an order of suspension cannot be continued beyond the period of three months if the memorandum of charges/charge-sheet has not been served within three months, or if memorandum of charges/charge-sheet is served without reasoned order of extension.

(ii)The judgment in R.Balaji, supra, has no reference to the earlier judgments of co-equal strength and is thereby rendered per incuriam.

(iii) The issue of challenge to the order of suspension should be analyzed on the facts of each case, considering the gravity of the charges and the rules applicable.

(iv) Revocation of suspension with a direction to the employer to post the delinquent in a non-sensitive post cannot be endorsed or directed as a matter of course. It has to be based on the facts of each case and after noticing the reason for the delay in serving the memorandum of charges/charge-sheet."

7. Therefore, considering the gravity of the offence committed by the petitioners and also in the light of the above decision of the Hon'ble Full Bench of this Court, this Court is inclined to pass orders as follows:-

(i) The petitioners are directed to make a fresh representation to the 2nd respondent along with this order copy, within a period of two weeks from the date of receipt of a copy of this order.

(ii) If any such representation is made, the 2nd respondent is directed to consider and pass appropriate orders on merits and in accordance with law and in the light the decision rendered by the Hon'ble Full Bench of this Court in P.Kannan vs. The Commissioner for Municipal Administration and Others (W.P.Nos.2165 of 2015 and 21628 of 2018 dated



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15.03.2022), as early as possible.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dm

To

1. The Director
Rural Development and Panchayat Raj,
Panagal Building,
Chennai - 600 015.
2. The Additional Chief Secretary
Rural Development and Panchayat Raj (E2) Department,
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5. The District Collector
Krishnagiri District.
Krishnagiri - 635 002.
6. The Deputy Superintendent of Police
Vigilance and Anti-Corruption Department,
Krishnagiri, Krishnagiri District.

+1cc to the Government Pleader, S.R.No.30713

W.P.Nos.13891 and 27778 of 2021

KJ(CO)
RGA(31/05/2022)