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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.NO.28438 OF 2021

R. Sridevi

... Petitioner

vs.

1. The District Collector,
Villupuram District,
Villupuram.
2. The Additional Director,
Survey & Land Records,
Chennai - 600 005.
3. The Regional Deputy Director,
Survey & Land Records,
Chennai - 600 005.
4. The Assistant Director,
Survey & Land Records,
Villupuram,
Villupuram District.

... Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 4th respondent, the Assistant Director, Survey and Land Records, Villupuram, to consider and pass orders on the petitioner's representation, dated 03.12.2021 in the light of the order passed by the Hon'ble Supreme Court of India in Ajay Kumar Chaudri V. Union of India reported in 2015 (2) SCALES 432, to revoke the suspension order, dated 20.09.2021, having reference Na.Ka.A2/5509/2021 on the file of the 4th respondent, the Assistant Director, Survey and Land Records, Villupuram.

For Petitioner : Mr.E.P.Senniyangiri

For Respondents: Mr.Haja Nazirudeen
Additional Advocate General
Assisted by
Mrs.S.Anitha
Special Government Pleader



O R D E R

This writ petition has been filed seeking to issue a Writ of Mandamus, directing the 4th respondent, the Assistant Director, Survey and Land Records, Villupuram, to consider and pass orders on the petitioner's representation, dated 03.12.2021 in the light of the order passed by the Hon'ble Supreme Court of India in Ajay Kumar Chaudri vs. Union of India reported in 2015 (2) scales 432, to revoke the suspension order, dated 20.09.2021, having reference Na.Ka.A2/5509/2021 on the file of the 4th respondent, the Assistant Director, Survey and Land Records, Villupuram.

2. According to the petitioner, she was placed under suspension for the involvement of the criminal case in Crime No.11/2020/AC/VPM under Sections 7 and 12 of the Prevention of Corruption Act, 1988 as amended in the Prevention of Corruption (Amendment) Act, 2018 by the Assistant Director, Survey and Land Records, Villupuram District/the 4th respondent herein by the proceedings in Na.Ka.No.A2/5509/2021 dated 20.09.2021. According to the petitioner, the said criminal case is still pending in FIR stage and no charge sheet has been filed against her. Therefore, the petitioner has made a representation dated 03.12.2021 to the respondents for revocation of the impugned suspension order. But so far, no such order has been passed. Hence, she has filed the present writ petition before this Court.

3. The learned Additional Advocate General appearing for the respondents would submit that the petitioner has relied upon the decision rendered by the Hon'ble Supreme Court of India in Ajay Kumar Chaudri V. Union of India reported in 2015 (2) scales 432, for revocation of the impugned suspension order pending against her. The said decision was considered by the Hon'ble Full Bench of this Court in the case of P.Kannan vs. The Commissioner for Municipal Administration, Chennai (W.P.Nos.2165 of 2015 and 21628 of 2018 dated 15.03.2022). Therefore, the said representation of the petitioner dated 03.12.2021 would be considered by the concerned authority, by taking note of the aforesaid judgment of the Full Bench of this Court and the appropriate orders would be passed.

4. Heard both sides and perused the materials available on record.

5. The relevant portion of the judgment passed by the Hon'ble Full Bench of this Court in P.Kannan vs. The Commissioner for Municipal Administration, Chennai (W.P.Nos.2165 of 2015 and 21628 of 2018 dated 15.03.2022), is extracted as follows:-



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(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.

6. In the light of the above said judgment of the Hon'ble Full Bench of this Court, this Court is inclined to direct the 4th respondent to consider the petitioner's representation dated 03.12.2021 and pass appropriate orders on its own merits in accordance with law, by taking note of the above said judgment of the Hon'ble Full Bench of this Court, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dm

To

1. The District Collector,
Villupuram District,
Villupuram.



2. The Additional Director,
Survey & Land Records,
Chennai - 600 005.

3. The Regional Deputy Director,
Survey & Land Records,
Chennai - 600 005.

4. The Assistant Director,
Survey & Land Records,
Villupuram,
Villupuram District.

+1cc to Mr.E.P.Senniyangiri, Advocate, S.R.No.22567
+1cc to the Government Pleader, S.R.No.22777

W.P.No.28438 of 2021

MT (CO)
PM/20/04/2022