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W.P.No.33651 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:15.12.2022

Coram

The HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P.No.33651 of 2022
& W.M.P.No.33103 of 2022

S.Kumar

.. Petitioner

vs

1.The Director General of Police,
Mylapore, Chennai – 600 004.

2.The Commissioner of Police,
Greater Chennai Police,
No.132, E.V.K.Sampath Road,
Vepery, Chennai – 600 007.

3.The Joint Commissioner of Police,
Headquarters,
Greater Chennai Police,
O/o. Commissioner of Police,
Vepery, Chennai – 600 007.

.. Respondents

Petition filed under Article 226 of the Constitution of India
praying to issue a writ of certiorarified mandamus calling for the
impugned records issued by the 3rd respondent in
Rc.No.28784/PRIV(2)/2002, CPO No. 1374/2022, dated 16.05.2022



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and quash the same as illegal and direct the 1st respondent to consider the representation of the petitioner dated 06.10.2022.

For Petitioner : Mr.S.Prabakaran, Senior Advocate
for Mr.MA.Gouthaman

For Respondents : Mr.D.Ravichander
Special Government Pleader

ORDER

The petitioner has challenged the impugned suspension order dated 16.05.2022 issued to him by the third respondent. The petitioner is a Special Sub Inspector of Police and he has been suspended from service under the aforementioned impugned order. He pleads innocence to the commission of the alleged offence in Crime No.127 of 2022 registered against him under Sections 341, 294(b), 353, 323 and 506(ii) of IPC.

2. According to the prosecution, the petitioner along with other police officials were involved in a custodial torture which ultimately resulted in the death of the prisoner. However, the petitioner claims that he was not present in the scene of the incident and was not involved in the case of the alleged custodial death. In



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such circumstances, the petitioner has filed this writ petition seeking to quash the impugned suspension order. The suspension order was passed on 16.05.2022. At the preliminary stage of investigation, this Court cannot interfere with the impugned suspension order. However, necessarily, the respondents will have to adhere to the guidelines prescribed under G.O.Ms.No.81 Human Resources Management (N) Department dated 04.08.2022 with regard to suspension orders.

3. Learned senior counsel for the petitioner drew the attention of this Court to Clause 3 as well as Clause 11 of G.O.Ms.No.81 Human Resources Management (N) Department dated 04.08.2022 in which guidelines have been prescribed pursuant to the directions issued by the Honourable Supreme Court in the case of *Ajay Kumar Choudhary Vs. Union of India through its Secretary and Another in Civil Appeal No.1912 of 2015*. In the very same Government Order, in Clause 5, the guidelines issued by the Full Bench of the Madras High Court in its common order dated 15.03.2022 in W.P. Nos.2165 of 2015 and 21628 of 2018 in the case of *P.Kannan and Another Vs. The Commissioner of Municipal Administration and Others reported in 2021 4 CTC 1* have also been incorporated.



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4. Necessarily, the respondents will have to adhere to G.O.Ms.No.81 Human Resources Management (N) Department dated 04.08.2022 with regard to suspension orders. The grievance of the petitioner is that the aforementioned Government Order has not been adhered to and he also pleads innocence of the alleged offence. He has already been granted bail. The petitioner has given representations on 24.08.2022, 19.09.2022 and 06.10.2022 to the respondents requesting for revoking his suspension order. Admittedly, the said representations have not been considered by the respondents till date. Necessarily, the same will have to be considered by the respondents in the light of G.O.Ms.No.81 Human Resources Management (N) Department dated 04.08.2022 within a short time considering the fact that the petitioner pleads innocence and also pleads that he was not present in the scene of the incident.

5. For the foregoing reasons, this Court directs the second respondent to pass final orders on the petitioner's representations dated 24.08.2022, 19.09.2022 and 06.10.2022 requesting for revoking the suspension order dated 16.05.2022 on merits and in accordance with law within a period of four weeks from the date of



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receipt of a copy of this order.

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6. With the aforesaid direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index:Yes/No
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To

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ABDUL QUDDHOSE,J.

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