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W.A.(MD)No.886 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2022

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.A(MD)No.886 of 2022
and
C.M.P.(MD)No.7357 of 2022

- 1.The Inspector General of Registration,
O/o., Inspector General of Registration,
100, Santhome Highway, Chennai.
- 2.The Deputy Inspector General of Registration,
Madurai.
- 3.The District Registrar (Admin),
(In the cadre of Assistant Inspector General
of Registration,
Madurai (South) Registration District, Madurai. ... Appellants

Vs.

D.Vijay Anand ... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent to set aside the order of this Court, dated 18.07.2022 in W.P.(MD)No.14192 of 2022.

For Appellants	:Mr.Veera Kathiravan Additional Advocate General assisted by Mr.K.Selvaganesal Additional Government Pleader
For Respondent	:Mr.Issac Mohanlal Senior Counsel for Mr.P.R.Prithivi Raj



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JUDGMENT

(Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

This Writ Appeal is directed against the order of learned Single Judge, dated 18.07.2022 in W.P.(MD)No.14192 of 2022 allowing the Writ Petition filed by the respondent.

2.Heard Mr.Veera Kathiravan, learned Additional Advocate General, assisted by Mr.K.Selvaganesan, learned Additional Government Pleader and Mr.Isaac Mohanlal, learned Senior Counsel for Mr.P.R.Prithivi Raj, learned Counsel, who takes notice on behalf of respondent. By consent of both parties, the present Writ Appeal is taken up for final disposal at admission stage.

3.As against the respondent, while he was serving as Sub Registrar in No.IV Joint Sub Registrar Office, Madurai South, Madurai, a criminal case was registered in Cr.No.35 of 2020 on 04.06.2020 for various offences under Sections 120B, 465, 467, 468, 471, 419 and 420 IPC before the Sub Inspector of Police, City Crime Branch, Madurai City, and the respondent was arrayed as fourth accused and was arrested and detained in judicial custody for a period exceeding 48 hours and hence,



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the second appellant, by order, dated 01.10.2020, suspended the respondent from service with effect from 27.09.2020.

4.It is admitted now before this Court that a quash petition was filed before this Court in CrI.O.P.(MD)No.13267 of 2020 before this Court and the same was allowed by quashing the FIR registered in Cr.No.35 of 2020 as against the respondent . It was based on the order passed by this Court quashing the complaint in Cr.No.35 of 2020, the respondent submitted a representation to reinstate him into service by revoking the order of suspension. However, the appellants, without considering the representation of the respondent, issued a charge memo against the respondent and proceed with the enquiry. It is also admitted that the charge memo, that was issued to the respondent, dated 29.01.2021, went further by appointing an Enquiry Officer. The Enquiry Officer, after holding enquiry, submitted his report finding that the charges against the respondent are not proved.

5.It was thereafter, the respondent submitted a representation and the appellants did not revoke the order of suspension. Therefore, the respondent filed a Writ Petition in W.P.(MD)No.13016 of 2021 and this Court, by order, dated 29.07.2021, directed the respondent to submit a fresh representation to the appellants 1 and 2 to revoke the order of

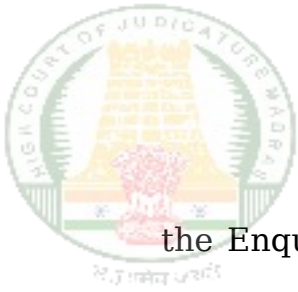


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suspension and further directed the appellants 1 and 2 to consider the said representation taking into account the order of this Court in Crl.O.P. (MD)No.13267 of 2020, dated 21.12.2020.

6.In the meanwhile, the Inspector General of Registration, by proceedings, dated 11.08.2021 informed the respondent that the findings of the Enquiry Officer are not agreed by the appellants and asked the respondent to submit his further representation. Thereafter, the respondent sent a further representation for revocation of order of suspension and the same was rejected by the first appellant vide order impugned in the Writ Petition, dated 31.08.2021. It is against the subsequent order rejecting the representation of the respondent for revoking the order of suspension, the respondent filed a Writ Petition in W.P.(MD)No.14192 of 2022. The said Writ Petition was allowed by the learned Single Judge of this Court with the direction to the appellants to forthwith reinstate the respondent back into service within a period of two days from the date of receipt of a copy of that order. Challenging the said order, the present Writ Appeal is filed.

7.The learned Additional Advocate General appearing for the appellants points out the facts and submits that the charge memo, which was issued to the respondent, is under consideration, as the finding of



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the Enquiry Officer was not accepted by the first appellant. He further submits that since the departmental proceedings is deemed to be pending on account of the order of first appellant to proceed further with enquiry by issuing a show cause notice to the respondent, the order impugned in the Writ Petition is perfectly in order.

8.Mr.Isaac Mohanlal, learned Senior Counsel for the respondent submits that the order of suspension is not sustainable in view of the order passed by this Court in CrI.O.P.(MD)No.13267 of 2020, dated 21.12.2021. Since the criminal complaint is the very foundation for the order of suspension and the same has been quashed by this Court, the learned Senior Counsel for the respondent submits that the order of suspension cannot continue.

9.He also refers to Rule 17(e) of Tamil Nadu Civil Services (Discipline and Appeals) Rules, 1955 and submits that a member of service can be placed under suspension from service only when a disciplinary proceedings against him is contemplated or pending. Since the Enquiry Officer has submitted a report holding that the charges against the respondent are not proved, the learned Senior Counsel for the respondent submits that there is no scope for prolonging the order of suspension, as the disciplinary proceedings cannot be taken as pending.



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The learned Senior Counsel further submits that the first respondent was under judicial custody only on account of the criminal complaint and the order of deemed suspension cannot continue, in case, the criminal complaint itself is quashed. Therefore, he states the order of suspension is unjustifiable and unwarranted. The order impugned in the Writ Petition without revoking the order of suspension, is therefore, according to the learned Senior Counsel for the respondent, cannot be sustained.

10.This Court, though impressed with the arguments of the learned Additional Advocate General, referring to the facts is unable to entertain the appeal for the simple reason that the order of suspension cannot continue after the criminal case itself is quashed by this Court. The learned Additional Advocate General admitted that no appeal is preferred as against the order of this Court in CrI.O.P.(MD)No.13267 of 2020 quashing the criminal complaint. The order of suspension is not in contemplation of or pending departmental proceedings. Since it was reported that the respondent was arrested on 27.09.2020 and detained in judicial custody in connection with a criminal case registered in Cr.No.35 of 2020 for more than 48 hours, he was placed under suspension for the fact that he was under judicial custody for more than 48 hours. The criminal complaint, which was the very basis of his arrest, was quashed by this Court in CrI.O.P(MD)No.13267 of 2020, dated 21.12.2020. It is in



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these circumstances, this Court is unable to interfere with the order of learned Single Judge. Hence, the order of learned Single Judge in W.P. (MD)No.14192 of 2022, dated 18.07.2022 is confirmed. However, it is open to the appellants to proceed further with the departmental proceedings, since it is submitted that the findings of the Enquiry Officer are not accepted by the first appellant. As regards the issue whether the respondent can be placed under suspension pending enquiry, this Court is not inclined to express any opinion as to the legality of such option in this appeal.

11.With the liberty preserved to the appellants, as indicated above, the Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.R., J.] [S.S.Y., J.]
18.08.2022

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