



W.P. Nos. 4272 and 9535 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 24.04.2023**

**CORAM**

**THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU**

**W.P. Nos. 4272 and 9535 of 2023**

**and**

**W.M.P. No. 4320 of 2023**

**W.P. No. 4272 of 2023**

P. Anandhan

... Petitioner

-VS-

1. The District Collector,  
Cuddalore District,  
Cuddalore – 607 001.
2. The Revenue Divisional Officer,  
Cuddalore District,  
Cuddalore – 607 001.
3. The Tahsildar,  
Kurinjipadi Taluk,  
Cuddalore District – 607 001.
4. The Inspector of Police,  
Vigilance and Anti-Corruption,  
Cuddalore.

... Respondents

**Prayer:-** Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to impugned proceedings in A3/1133/2022 dated 26.04.2022 passed by the Third Respondent, quash the same and consequently permit the Petitioner to rejoin duty/service as Village Assistant with all attendant/consequential benefits.



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For Petitioner

: Mr. D.Ashok Kumar

For Respondents

: Mr. B.Vijay,  
Additional Government Pleader

**W.P. No. 9535 of 2023**

S. Sivathangarasu

... Petitioner

-VS-

1. The District Collector,  
Cuddalore District,  
Cuddalore – 607 001.
2. The Revenue Divisional Officer,  
Cuddalore District,  
Cuddalore – 607 001.
3. The District of Survey and Land Records,  
Department Office, Chepauk,  
Chennai.
4. The Assistant Director of Survey and Land Records,  
Cuddalore District,  
Cuddalore.
5. The Inspector of Police,  
Vigilance and Anti-Corruption Corruption,  
Cuddalore.  
[R5 *suo motu* impleaded vide order dated 29.03.2023]

... Respondents

**Prayer:-** Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Fourth Respondent the Assistant Director of Land and Records, Cuddalore to consider the Petitioner's representation dated 28.02.2023 in the light of the order passed by the Supreme Court of India in Ajay Kumar Chaudri V. Union of India reported in 2015 (2) SCALES 432 to revoke the Suspension order dated .04.2022 having



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reference R.C.B4/2143/2022 on the file of the Assistant Director of Survey and Land Records, Cuddalore.

For Petitioner : Mr. R.Naresh Kumar  
For Respondents : Mr. B.Vijay,  
Additional Government Pleader

### COMMON ORDER

Heard Mr. D.Ashok Kumar, Learned Counsel for the Petitioner in W.P. No. 4272 of 2023 and Mr. R.Nareshkumar in W.P. No. 9535 of 2023 and Mr. B.Vijay, Learned Additional Government Pleader appearing for the Respondents in both the Writ Petitions and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner in W.P. No. 4272 of 2023 was working as Village Assistant in Ellanpanpettai Village of Cuddalore District and he was trapped and arrested on 26.04.2022 by the Inspector of Police, Vigilance and Anti-Corruption Department, Cuddalore District for demand and acceptance of Rs. 6,000/- as undue advantage from Thiru. Neelakandan in connection with Sub-Division Patta transfer in the name of his mother viz., Kamala, in respect of which a criminal case in Crime No. 3 of 2022 had been filed under Section 7



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and 12 read with 7 of the Prevention of Corruption Act, 1988 before the Chief

Judicial Magistrate, Cuddalore. In the same case, one S.Sivathangarasu, the Petitioner in W.P. No. 9535 of 2023, who was working as Sub-Inspector of Survey, Mobile Survey Unit, Kurinjipadi Taluk was also arrested. Both of them were suspended by separate orders of the Tahsildar, Kurinjipadi by Proceedings No. A3/1133/2022 dated 26.04.2022 and Assistant Director of Survey and Land Records, Cuddalore by the Proceedings in R.C. B4/2143/2022 dated 28.04.2022 respectively.

3. The grievance ventilated by the Petitioner in W.P. No. 4272 of 2023 is that the suspension order passed is prolonging indefinitely and as such, the same may be quashed and he may be permitted to re-join duty with consequential and attendant benefits. In W.P. No. 9535 of 2023, the Petitioner has sought for a direction to the Assistant Director of Land and Records, Cuddalore to consider his representation dated 28.02.2022 in the light of the decision of the Hon'ble Supreme Court of India in ***Ajay Kumar Choudhary -vs- Union of India*** [(2015) 7 SCC 291] to revoke his suspension.

4. It has been brought to notice that after the filing of the Writ Petitions, the charge-sheet in the Criminal Case has been registered on 12.04.2023 and has



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been taken on file as Special Case No. 3 of 2023 before the Chief Judicial Magistrate, Cuddalore District, Cuddalore and the summons has been issued to the accused and has been posted on 25.05.2023 for their appearance.

5. In this context, reference must be made at once to the decision of the Hon'ble Supreme Court of India in ***Ajay Kumar Choudhary -vs- Union of India*** [(2015) 7 SCC 291] where it has been laid down as follows:-

*“21. We, therefore, direct that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges /charge-sheet is served, a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the person concerned to any local or personal contact to any department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he made misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling*



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*records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise that the previous Constitution Benches have been reluctant to quash proceedings on the ground of delay, and to set time-limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation, departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us.”*

The Full Bench of this Court in ***P.Kannan -vs- Commissioner of Municipal Administration*** [Order dated 15.03.2022 in W.P. Nos. 2165 of 2015 and 21628 of 2018] has further clarified the legal position as follows:-

*“(i) The judgment of the Apex Court in the case of **Ajay Kumar Choudhary -vs- Union of India** [(2015) 7 SCC 291],*



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*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 has not been served within three months, or if memorandum of charges /charge sheet is served without reasoned order of extension.*

(ii) ....

(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.”*

The Government of Tamil Nadu in G.O. Ms. No. 81, Human Resources Department, dated 04.08.2022, after referring to the aforesaid binding



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decisions, has issued a compendium of instructions to be followed for review of suspension pending enquiry into grave charges against Government servants and the directions therein relevant to this case are extracted below:-

*“11. The Government, after careful examination, reiterates the guidelines issued in the Government Order second read above with slight modification as follows:-*

*(i) The power of ordering suspension should be exercised carefully and with restraint. Before a suspension order is issued, the authority concerned must be clear in mind that it is necessary. Prolonged suspension means that Government pays a Government Servant without extracting any work from him. In view of the above position, the suspension should not be resorted to unless the concerned authority has considered all the relevant factors and recorded his reasoned conclusion that it is in the public interest to place the Government Servant under suspension.*

*(ii) Where a Government Servant has been suspended on disciplinary proceedings contemplated, such proceedings*



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*should be initiated immediately and finalized normally within a period of six months.”*

This would obviously mean that it is incumbent upon the concerned authority to examine the necessity or otherwise of the continuance of the suspension of the Petitioners with due regard to the said instructions and shall carry out such exercise by 30.09.2023 and communicate the decision taken to them under written acknowledgment.

6. In the result, these Writ Petitions are disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

24.04.2023

skr

Index: Yes/No

Neutral Citation: Yes/No

**Note: Issue order copy by 21.08.2023.**

To

1. The District Collector,  
Cuddalore District,  
Cuddalore – 607 001.
2. The Revenue Divisional Officer,  
Cuddalore District,  
Cuddalore – 607 001.



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3. The Tahsildar,  
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**P.D. AUDIKESAVALU, J.**

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