



WEB COPY

W.P. No. 2635



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P. No. 26357 of 2021

and

W.M.P. No. 27829 of 2021

R. Selvam

... Petitioner

Vs.

1. The District Collector,
Dharmapuri District,
Dharmapuri.
2. The Revenue Divisional Officer,
Dharmapuri District,
Dharmapuri.
3. The Inspector of Police,
Vigilance & Anti-Corruption Department,
Dharmapuri,
Dharmapuri District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining order of the second respondent proceedings vide ROC. 2873 / 2021 / A1 dated 29.6.2021 and quash the same as illegal improper, incompetent, and ultravires and consequentially direct the second respondent herein to reinstate the petitioner post of Village Administrative Officer, P. Settihalli Village, i/c Jarthalav Revenue Village, Palacode Taluk, Dharmapuri District with all backwages.



For Petitioner : Mr. C.Palanisamy

For Respondents : Mr.T.Arunkumar,
Government Advocate

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records and quash the impugned order in R.O.C.No.2873 / 2021 / A1 dated 29.6.2021 and consequentially direct the second respondent to reinstate the petitioner post of Village Administrative Officer, P. Settihalli Village, i/c Jarthalav Revenue Village, Palacode Taluk, Dharmapuri District with all backwages.

2. The learned counsel for the petitioner submitted that the petitioner, who was working as Village Administrative Officer at P.Settiahalli Village was suspended on 29.06.2021; the third respondent has registered F.I.R against the petitioner in No.02/AC/2021 under Section 7(a) of the Prevention of Corruption Act, 1988 as amended Act, 2018 and the said proceedings are still pending; no charge memo has been issued by the third respondent within three months and hence, there is no impediment to reinstate the petitioner into service.

3. In this regard, the learned counsel for the petitioner relied on the judgment



of the Hon'ble Supreme Court of India in ***Ajay Kumar Choudhary -vs- Union of India*** in [(2015) 7 SCC 291]. The relevant paragraph of the said case is extracted hereunder:-

“ 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 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 may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling 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 above position has been followed and approved in the various subsequent judgments of this Court and other High Courts.

4. In the case on hand also, the respondents does not seem to have given any extension of suspension order. However, the petitioner has filed the writ without making any representation to the Department for reinstatement. Hence, the petitioner is at liberty to give representation to the respondents and on receipt of the same, the respondents shall consider and dispose of the same in the light of the judgment of the Hon'ble Supreme Court of India in the case of ***Ajay Kumar Choudhary -vs- Union of India*** in [(2015) 7 SCC 291] within a time frame.

5. Accordingly, this Writ Petition is disposed with a direction to the respondents to consider the representation to be made by the petitioner and dispose the same in the light of the judgment of the Hon'ble Supreme Court of India in the case of ***Ajay Kumar Choudhary -vs- Union of India*** in [(2015) 7 SCC 291], within



a period of four weeks from the date of receipt of a copy of this order. No costs.

Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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2. The Revenue Divisional Officer,
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R.N.MANJULA, J.

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