



W.P(MD)No.13836 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13836 of 2023

and

W.M.P(MD)Nos.11666, 11670 & 11672 of 2023

K.Mohan Raj

... Petitioner

Vs

1.The State represented by
The Principal Secretary,
Department of Revenue,
Fort St.George,
Chennai – 600 006.

2.The District Collector,
O/o. The District Collector,
First Floor,
Collectorate,
Sivagangai – 630 562.

3.The Personal Assistant (General) to the Collector,
First Floor,
Collectorate,
Sivagangai – 630 562.

4.The District Revenue Officer,
District Collectorate,
Sivagangai – 630 561.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records from the third respondent relating to the order dated 02.05.2023 bearing Reference Roc.No. A3/11975/2023 suspending the petitioner from service w.e.f., the case of detention i.e., 16.04.2023 until further orders and quash the same as illegal, arbitrary, without jurisdiction and to consequently direct the respondents 2 and 3 to allow the petitioner to discharge his duties as Driver in the fourth Respondent Office by treating the period from 16.04.2023 as duty, pay salary and other benefits for the entire period from 02.05.2023.

For Petitioner : Mr.G.Anto Prince

For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2. The petitioner is presently working as Driver in Sivagangai Collectorate. By the impugned order he has been suspended. The petitioner challenges the order of suspension. The suspension order cannot be challenged. This is because it was issued following the arrest and remand of the petitioner in a Protection of Child from Sexual Offences (POCSO) case.



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Under Rule 17 (e) of Tamil Nadu Civil Service (Discipline and Appeal) Rules, it is automatic. The only relief the petitioner can seek is revocation of suspension order.

3. The learned counsel appearing for the petitioner draws my attention to the bail order dated 02.05.2023 passed by the Sessions Judge (Fast Track Mahila Court), Ramanathapuram in CrI.M.P.No.813 of 2023. It is stated that the petitioner was in an intoxicated condition and had entered his relative's house and he had not committed any offence under the POCSO Act. It is not for this Court to go into the said aspect. The matter is for the investigating authority and the jurisdictional criminal Court. But a limited enquiry can very well be undertaken by the third respondent who passed the suspension order.

4. The third respondent is directed to have one to one conversation with the victim child in the presence of her mother. Any Lady officer working in the Collectorate shall also be present when the enquiry is conducted. The conversation shall be vedigraphed. Confidentiality shall be maintained. If the victim girl sticks to her stand taken before the criminal Court during hearing and completely exculpates the petitioner for the offence under POCSO Act, the suspension order can be revoked. If the victim girl sticks to her stand set out in the FIR, the suspension will have to necessarily continue. The video recording



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will be kept in safe custody of the third respondent and it will be produced before this Court if the occasion arises. This enquiry shall be done forthwith and concluded and final order shall be passed within a period of two weeks from the date of receipt of a copy of this order.

5. This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

13.06.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

Note: Issue Order Copy on 15.06.2023.

To

1. The Principal Secretary,
Department of Revenue,
Fort St. George,
Chennai – 600 006.

2. The District Collector,
O/o. The District Collector,
First Floor,
Collectorate,
Sivagangai – 630 562.

3. The Personal Assistant (General) to the Collector,
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4. The District Revenue Officer,
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G.R.SWAMINATHAN, J.

MGA

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