



W.P.No.10005 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.06.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.10005 of 2024

and

WMP.Nos.11014 & 11015 of 2024

K.Mohanapriya

..

Petitioner

Vs.

- 1.The District Collector,
Collector Office,
Thiruvallur District.
- 2.The District Revenue Officer,
Thiruvallur District.
- 3.The Revenue Divisional Office,
Thiruvallur District.
- 4.The Inspector of Police,
Vigilance and Anti Corruption,
Kancheepuram.
(R4-Suo Motu impleaded as
per order dated 15.04.2024)

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Respondents



W.P.No.10005 of 2024

Prayer: Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus calling for the records relating to the suspension order passed by the 3rd respondent in R.C.No.146/2021/A1 dated on 1/2/2021 and quash the same and consequently to direct the respondents to reinstate the petitioner in the respondent's department based on the petitioner's representation on 17.02.2024 in view of the G.O.(Ms.) No.81 dated 04.06.2022 with in a time frame.

For the Petitioner : Mr.S.Ajith

For Respondent : Mr.C.Jayaprakash,
Government Advocate.

ORDER

The petitioner has filed the present Writ Petition for a Writ of Certiorarified Mandamus calling for the records relating to the order of suspension dated 01.02.2021 passed by the third respondent, and to direct the respondents to reinstate the petitioner.



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2. The case of the petitioner is that the petitioner joined service as Village Administrative Officer in the year 2019. While so, one Moorthy filed an application for the transfer of patta and the petitioner, being the Village Administrative Officer requested that the said person furnish the relevant documents with regard to the transfer of patta. The above person was unable to furnish the relevant documents, and the petitioner insisted on the said documents. Aggrieved thereby, he has filed a false complaint, and the same was registered in Cr.No.1/AC/2021 for the offence punishable under Section 7 of the Prevention of Corruption Act. Upon a trap being laid the petitioner was arrested and remanded to judicial custody on 29.01.2021. Subsequently, the petitioner was enlarged on bail on 08.02.2021. In view thereof, since the petitioner was under incarceration for more than 48 hours, the impugned order of suspension was passed. Thereafter, till date, no charge memo has been issued against the petitioner. The criminal case has also not concluded. The petitioner cannot be kept under prolonged suspension. Now 3 years have lapsed from the date of suspension of the petitioner. Still, there are no immediate chances of the criminal case against



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the petitioner getting over, and therefore, the petitioner made a representation to consider and revoke the suspension. As a matter of fact, the petitioner approached this Court earlier by way of W.P.No.23956 of 2021 and this Court directed the respondents to consider the petitioner's representation for revocation. Even thereafter, the suspension is not revoked. As a matter of fact, the Government of Tamil Nadu issued G.O.Ms.NO.81 dated 04.08.2022 with reference to the revocation and reinstatement of the employees, and in view of said government order, it is entitled to revocation of the suspension.

4. Per contra, when the matter came up for admission, this Court, considering the nature and circumstances of the case, impleaded the Investigation Officer as the 4th respondent. The investigation officer was virtually present before this court on the last occasion. Today, when the matter came up for hearing, the learned Government Advocate appearing on behalf of the respondent would submit that the investigation in the criminal case against the petitioner is complete and already a charge sheet has been



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filed in Spl.C.C.No.6/22, the same is pending on the file of the Chief Judicial Magistrate, Thiruvallur. The same is now posted for trial, and already summons have been issued for the appearance of LW.1 on 01.07.2024. The summons will be duly served on L.W.1 and he will be produced before the Court for trial on the said date. On a further query from this Court, it is represented by the learned Government Advocate that there are 17 witnesses in this case and the trial can be completed within a period of 3 to 4 months from 01.07.2024.

5. This Court considers the nature of allegation i.e., demanding and receiving a bribe of Rs. 10,000/- from an applicant who sought a transfer of patta. The petitioner is suspended for the year 2021. As far as the reliance placed on G.O.Ms.NO.81 dated 04.08.2022 is concerned, the same is based on the judgment of the Hon'ble Supreme Court of India in *Ajaykumar Choudry vs. Union of India* [reported in (2015) 7 SCC 291]. However, the Hon'ble Full Bench of this court subsequently, clarified the applicability of *Ajaykumar Choudry's case* (cite supra), especially in matters relating to



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corruption and trap cases. In view thereof, the petitioner cannot take advantage of G.O.Ms.NO.81 dated 04/8/2022. However, considering the fact that the petitioner is in suspension, direction can be issued to the learned Chief Judicial Magistrate, Thiruvallur, to complete the trial at the earliest. So that an appropriate decision can be taken in the matter of the petitioner's suspension after the conclusion of the trial.

6. In view thereof, this Writ Petition is disposed of on the following terms:

- (i) The prayer of the Writ Petitioner to quash the order dated 01.02.2021 shall stand negatived;
- (ii) There shall be a direction to the Chief Judicial Magistrate, Thiruvallur to take up Spl.CC.No.6/2022 for trial as expeditiously as possible in any event and complete the event on or before 30.11.2024;
- (iii) The 4th respondent Investigation Officer is directed to follow up on the matter and serve summons on all the



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listed witnesses. The petitioner's side shall cooperate for the trial to proceed with;

(iv) No costs. Consequently, the connected miscellaneous petitions are also closed.

11.06.2024

Neutral Citation : No

jrs

To

- 1.The District Collector,
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Thiruvallur District.
- 2.The District Revenue Officer,
Thiruvallur District.
- 3.The Revenue Divisional Office,
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Copy to:

The Chief Judicial Magistrate,
Thiruvallur.

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D.BHARATHA CHAKRAVARTHY, J.

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