



Writ Petition No.24829 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.24829 of 2024

and

W.M.P.Nos.27184, 27186 & 27187 of 2024

S.Ambedkar
S/o.Sivaperumal

... Petitioner

Vs.

1.The Director,
School Education,
College Road, Nungambakkam,
Chennai - 600 006.

2.The Chief Educational Officer,
Ariyalur District.

3.The District Educational Officer,
(Elementary), Ariyalur.

4.The Block Educational Officer,
Jayankondam Block,
Ariyalur District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 06.06.2024 vide R.C.No.1041/A3/2024 passed by third respondent and quash the same as



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illegal and consequently, direct the respondents to reinstate the petitioner in service.

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For Petitioner : Mr.R.Senthilkumar
For Respondents : Mrs.P.Rajarajeshwari,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned proceedings of the third respondent dated 06.06.2024 and for a consequential direction to the respondents to reinstate the petitioner in service.

2. When the matter came up for hearing on 29.08.2024, this Court passed the following order:

"Mrs.E.Ranganayaki, learned Additional Government Pleader takes notice for the respondents.

2. The order of suspension passed by the 3rd respondent dated 06.06.2024 has been put to challenge in this writ petition. The 3rd respondent has passed the order on the premise that the petitioner was arrested on 04.06.2024 and he was in custody for 48 hours and therefore, there is a deemed suspension under clause (2) of sub rule (e) of Rule 17 of the Tamil Nadu Civil Service (Discipline and Appeal) Rules. On going through the records, it is seen that the petitioner was arrested only on 05.06.2024, which is quite apparent from the bail order passed by the learned Judicial Magistrate No.I, Jayankondam, dated 07.06.2024 in CrI.M.P.No.2348 of 2024. Hence, the petitioner who was arrested on 05.06.2024 has been released on bail within 48 hours.



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Therefore, it is not known as to how the Rule 17(e)(2) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules can be resorted for deemed suspension.

3.The learned Additional Government Pleader seeks for some time to take instructions in this case.

4.Post this writ petition at the end of the motion list on 05.09.2024."

3. When the matter was taken up for hearing today, learned Government Advocate, on instructions, submitted that the third respondent had received the information from the concerned police station, viz., Inspector of Police, Jayankondam Police Station, to the effect that the petitioner was arrested on 04.06.2024. Therefore, by the time the order was passed on 06.06.2024, 48 hours had crossed and therefore, there is a deemed suspension under Rule 17(2)(e) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules [hereinafter referred to as 'the Rules'].

4. Heard Mr.R.Senthilkumar, learned counsel for petitioner and Mrs.P.Rajarajeshwari, learned Government Advocate appearing for respondents.

5. In the considered view of this Court, the authority is



expected to ascertain the actual date of arrest only from the order passed by the Court. The police may take a person into custody before deciding to arrest him. There is a marked difference between taking a person into custody and arresting that person. What is important is to see as to when the petitioner was arrested in this case. The order passed by the Court shows that the petitioner was arrested on 05.06.2024. He has been let out on bail on 07.06.2024. However, the order of suspension came to be passed on 06.06.2024 under Rule 17(2)(e) of the Rules on the ground that there is a deemed suspension.

6. The suspension order passed under Rule 17(2)(e) of the Rules is unsustainable since it is clear that the petitioner was not arrested and was in custody for 48 hours. The petitioner has been let out on bail within 48 hours.

7. In the light of the above discussion, the impugned proceedings of the third respondent dated 06.06.2024 is hereby quashed. It is left open to the third respondent to take a fresh call in this regard and pass orders strictly in accordance with the Rules.

This writ petition is allowed in the above terms. No costs.



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Consequently, connected miscellaneous petitions are closed.

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Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order
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To

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- 2.The Chief Educational Officer,
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N.ANAND VENKATESH, J

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