



W.P.No.3543 of 2021

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

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ORDER RESERVED ON : 04.02.2025

ORDER PRONOUNCED ON : 21.03.2025

**CORAM**

**THE HON'BLE MRS. JUSTICE N.MALA**

**W.P.No.3543 of 2021**

**and WMP.No's. 28914 of 2023 & 4035 of 2021**

G.Shanmugathai

...Petitioner

Vs.

1. Director of School Education (Elementary)

DPI Campus,

College Road,

Chennai- 600 006.

2. The Chief Educational Officer,

Tiruppur,

Tiruppur District.

3. The District Educational Officer,

Udumalaipettai,

Thiruppur District.

4. The Block Educational Officer,

Gudimangalam Block,

Gudimangalam,

Udumalaipettai Taluk,

Thiruppur District.



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5. The Assistant Primary Education Officer,  
Kudimangalam,  
Udumalaipettai Taluk,  
Thiruppur District.

...Respondents

Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorari, calling for records connected with the impugned order passed by the 3<sup>rd</sup> Respondent in R.C.No:2446/B1/2019 dated 11.06.2019 and quash the same.

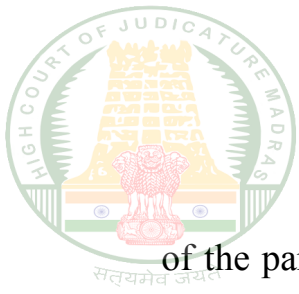
For Petitioner : Mr.V.S.Jagadeesan  
for Mr.R.Rengaramanujam

For Respondents : Mr.L.S.M.Hasan Fazil  
Additional Government Pleader

### **ORDER**

Writ petition is filed challenging the impugned order dated 11.06.2019.

2. The petitioner was working as a Head Master and posted in the Panchayat Union Primary School, Pannaikinaru. While so, a criminal complaint was lodged by one Mohan, against the Limited Liability Partnership Company named as Rich India Agro Tech Ltd. wherein, the petitioners husband was one



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of the partners in the said company. In pursuance of the criminal complaint, an

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F.I.R was registered against the petitioner and her husband on 02.06.2019, under

Sections 406, 420, 120(B) of Indian Penal Code, 1860 and Section 5 of the

Tamil Nadu Protection of Interests of Depositors (in Financial Establishments)

Act, 1997. The petitioner was ranked as Accused No.6 and her husband was

ranked as Accused No.3. The petitioner was remanded to judicial custody on

04.06.2019. As the petitioner was imprisoned for more than 48 hours, she was

placed under suspension under Clause(2) of sub-rule (e) of Rule 17 of the Tamil

Nadu Civil Services (Discipline and Appeal) Rules, by the impugned order of

the 3<sup>rd</sup> respondent dated 11.06.2019. The petitioner was placed under suspension

for nearly 1 ½ years without the subsistence allowance being paid to her since

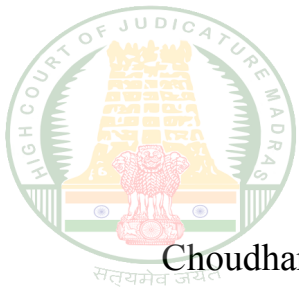
December-2019. According to the petitioner, as per G.O.(Ms).No.40, Personnel

and Administrative Reforms Department, dated 30.01.1996, the suspension of

the Government servant had to be reviewed every six months, but in the

petitioner's case, for nearly 1 ½ years, she was placed under suspension,

contrary to the dictum of the Hon'ble Supreme Court in the case of Ajay Kumar



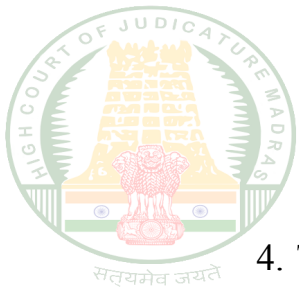
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Choudhary vs Union of India. The petitioner therefore filed the above writ

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petition challenging the suspension order dated 11.06.2019.

3. The respondents filed a detailed counter stating *inter alia*, that, as the petitioner was involved in a criminal case, it was not just and proper to permit the petitioner to continue in Government service. The respondents citing rule 20(1) of the Tamil Nadu Government Servant Conduct Rules, 1973, contended that the petitioner had failed to maintain absolute sincerity and devotion to duty. The respondents contended that as the petitioner was involved in a criminal case, the question of review of the order of suspension was not applicable to the petitioner. The respondents in their counter further contended that the petitioner was enlarged on bail, on condition that, she should appear before the Court and sign weekly once at the office hours. The respondents contended that unless the subject Court relaxed the bail condition, the petitioner could not be reinstated in service. The respondents therefore prayed that there were no merits in the writ petition and the same deserved to be dismissed.



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4. The learned counsel for the petitioner relying on the Judgment of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary vs Union of India and other Judgments annexed in the typed set of papers, submitted that the prolonged suspension of the petitioner for 1 ½ years was against the law laid down by the Hon'ble Supreme Court in the above cited Judgment. The learned counsel for the petitioner submitted that the petitioner was placed under suspension vide impugned order on 11.06.2019, and the petitioner continued to be under suspension for more than six years without any review or revocation of the suspension order. The learned counsel for the petitioner further submitted that the criminal proceedings are still pending and therefore the suspension of the petitioner for about six years now, is unwarranted.

5. The learned counsel for the respondents reiterated the contentions raised in the counter affidavit and on the basis of the instructions given at the time of hearing, submitted that the disciplinary proceedings were initiated against the petitioner under Section 17(b) of Tamil Nadu Civil Services



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(Discipline and Appeal) rules, 1955, by issuing a charge memo. Enquiry was

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conducted on the charge memo and the enquiry report was also filed. The learned counsel further submitted that before passing the final orders, a show cause notice giving an opportunity to the petitioner to submit her explanation to the enquiry report was issued on 03.02.2025, giving the petitioner 7 days time to reply to the same. The learned counsel therefore submitted that under the facts and circumstances, the writ petition deserved no merit and hence the same was liable to be dismissed.

6. I have heard both the learned counsels and perused the materials available on record.

7. Admittedly, the petitioner was detained and kept in police custody on 03.06.2019, in connection to a criminal case filed by the Inspector of Police, Economic Wing II, under Sections 406, 420, 120(b) of IPC and TNPID Act, 1997. As the police custody of the petitioner exceeded 48 hours, the petitioner



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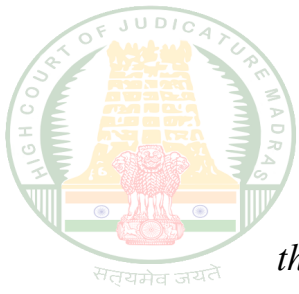
was issued with the impugned suspension order on 11.06.2019, invoking Clause

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(2) of sub-rule (e) of Rule 17 of Tamilnadu civil Services (Discipline and Appeal) rules, 1955. The petitioner aggrieved by the prolonged suspension, without any review and failure to pay subsistence allowance has filed the above writ petition for the aforesaid relief.

8. The law on prolonged suspension is no longer *res integra*. The Hon'ble Supreme Court in the case of *Ajay Kumar Choudhary vs Union of India*, reported in **CDJ 2015 SC 129**, paragraph 14 held as follows:

*“14. We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Chargesheet 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 concerned person to any Department in any of its offices within or outside the State so as to sever any local or personal contact*



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*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 recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash proceedings on the grounds 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.”*

9. The said judgment of the Hon'ble Supreme Court was followed by Division Bench of this court in a case reported in **CDJ 2021 MHC 398**, wherein it was held that keeping an employee for long period under suspension, without



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paying the subsistence allowance and not extracting any work from him was not proper. Taking note of the judgment of the Hon'ble Supreme Court, in Ajay Kumar Choudhary's case, the Hon'ble Division Bench refused to interfere with the direction of the learned Single Judge directing the Appellant/Municipality to reinstate the writ petitioner therein in service. On the facts of the present case, even though the law is very clear on the subject of prolonged suspension, it is to be seen if the prayer in the writ petition should be countenanced or not.

10. The petitioner was working as Head Mistress in the Panchayat Union Primary School, Pannaikinaru and was placed under suspension for her involvement in a criminal case. Challenging the suspension order the petitioners filed the above writ petition. During the pendency of the writ petition, disciplinary proceedings were initiated by issuing the charge memo and also enquiry was conducted. The enquiry officer submitted his report and a show cause notice was issued to the petitioner calling for her explanation to the enquiry report. In view of the subsequent development, I am of the view that,



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instead of quashing the suspension order, it would be more appropriate to issue a direction to the respondents to expedite the disciplinary proceedings.

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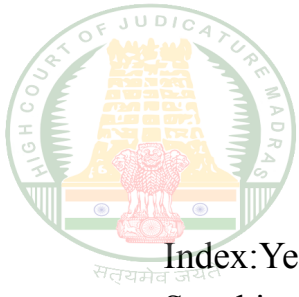
11. Therefore, I am inclined to issue a following directions:

The petitioner is directed to give a reply to the show cause notice dated 03.02.2025, within a period of two weeks from the date of receipt of a copy of this order, if not already submitted. On receipt of the petitioners explanation to the show cause notice, the respondents shall consider the same on merits and in accordance with law and pass final orders within a period of two weeks thereafter.

In view of the aforesaid direction, this writ petition is disposed of. However, there shall be no order as to costs. Consequently, connected Writ Miscellaneous petitions are closed.

21.03.2025

dsn/ah



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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

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**N.MALA,J.**

dsn

Pre-Delivery Order in W.P.No.3543 of 2021

Order Pronounced on 21.03.2025