



WEB COPY

W.P.(MD) No.2056 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2023

CORAM:

**THE HON'BLE MR.T.RAJA, THE ACTING CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR**

**W.P.(MD) No.2056 of 2023
and
W.M.P(MD)No.1834 of 2023**

G.Hemamalini

... Petitioner

-VS-

The Special Judge,
Special Court for trial of cases under
Prevention of Corruption Act,
Sivagangai.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records on the file of the respondent in connection with the impugned charge memo issued in proceedings dated 07.01.2023 and quash the same as illegal and arbitrary.

For Petitioner : Mr.D.Selvanayagam

For Respondent : Mr.N.Tamilmani



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ORDER

**[Order of the Court was made by
The Hon'ble The ACTING CHIEF JUSTICE]**

This Writ Petition has been directed against the charge memo dated 07.01.2023 issued by the respondent against the petitioner to submit her explanation.

2. Learned counsel appearing for the petitioner would submit that the nature of charge, if clearly perused, would show that the impugned charge memo dated 07.01.2023 issued by the respondent is per se illegal, arbitrary and unjustifiable. The charge memo framed against the petitioner is vague and does not disclose any material particulars such as date of occurrence and the persons, who preferred complaint, evidence which is to be considered in the enquiry etc., and therefore, with this vague charge, the respondent cannot proceed with the charge memo.

3. Learned counsel appearing for the petitioner would further submit that only at the time when the petitioner's name placed to be considered for further promotion, the present charge memo has been issued, which shows the malafide intention.



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4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. We are unable to find any merit in this Writ Petition, in view of the well settled legal position that a writ lies when some right of any party is infringed. The Hon'ble Apex Court in the case of ***Union of India & anr. V. Kunnisetty Satyanaraya*** reported in ***AIR 2007 SCC 906*** has held as follows:

“The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.”



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6. In the present case, the impugned charge memo was issued calling for explanation and therefore, the petitioner/ delinquent has to give her explanation to the charge memo. Only thereafter, if the explanation is not satisfactory, then the delinquent has to face the enquiry. Only in the enquiry, she has to prove her guilt. The charge memo has been issued without any determination of her guilt and therefore, it is not proper on the part of the petitioner to question the charge memo. Therefore, there is no merit in this Writ Petition and this Writ Petition is liable to be dismissed.

7. Accordingly, the Writ Petition is dismissed. No costs.
Consequently, connected Miscellaneous Petition is closed.

[T.R., A.C.J.] [D.K.K., J.]
03.02.2023

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

vsm/ps



W.P.(MD) No.2056 of 2021

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To
The Special Judge,
Special Court for trial of cases under
Prevention of Corruption Act,
Sivagangai.



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T.RAJA, A.C.J.
and
D.KRISHNAKUMAR, J.

vsm/ps

ORDER MADE IN
W.P.(MD) No.2056 of 2023

DATED : 03.02.2023