

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

WP(C).No. 38260 of 2015 (F)

PETITIONER:

**JACOB K.A., AGED 52 YEARS
S/O. LATE K.J. AUGUSTINE , SENIOR ACCOUNTANT
MARINE PRODUCTS EXPORT DEVELOPMENT AUTHORITY (MPEDA)
KOCHI-682 036.**

BY ADV. SRI.MATHEW JAMES

RESPONDENTS:

- 1. UNION OF INDIA
REPRESENTD BY THE SECRETARY TO GOVERNMENT OF INDIA
MINISTRY OF COMMERCE& INDUSTRY, NEW DELHI-110 011.**
- 2. THE MARINE PRODUCTS EXPORT DEVELOPMENT AUTHORITY
MARINE PRODUCTS EXPORT DEVELOPMENT AUTHORITY
MPEDA HOUSE, PANAMPILLY AVENUE, P.B. NO.4272
KOCHI - 682 036, REPRESENTED BY ITS CHAIRMAN.**
- 3. THE SECRETARY
MARINE PRODUCTS EXPORT DEVELOPMENT AUTHORITY
MARINE PRODUCTS EXPORT DEVELOPMENT AUTHORITY
MPEDA HOUSE, PANAMPILLY AVENUE
P.B. NO. 4272, KOCHI - 682 036.**

**BY ADVS. SMT.K.RADHAMANI AMMA, SC, MPEDA
SRI.ANTONY MUKKATH, SC, MPEDA
SRI.B.RAMACHANDRAN, CGC
BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
17-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 : COPY OF THE ORDER DATED 30/03/15 ISSUED BY THE 2ND RESPONDENT.
- EXT.P2 : COPY OF THE REPRESENTATION DATED 13/04/15 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P3 : COPY OF THE MEMO OF CHARGES DATED 26/05/15.
- EXT.P4 : COPY OF THE STATEMENT OF ALLEGATIONS DATED 26/05/15.
- EXT.P5 : COPY OF THE EXPLANATION OF THE PETITIONER DATED 27/06/15.
- EXT.P6 : COPY OF THE COMMUNICATION DATED 14/09/15 ISSUED BY THE 1ST RESPONDENT.
- EXT.P7 : COPY OF THE COMMUNICATION DATED 04/11/15 ISSUED BY THE 3RD RRESPONDENT.
- EXT.P8 : COPY OF THE SAID ESSENTIALITY CERTIFICATE ISSUED BY DR. MAYA S. TO THE PETITIONER.
- EXT.P8(A) : COPY OF THE SAID ESSENTIALITY CERTIFICATE ISSUED BY DR. MAYA S. TO ALICE JACOB.
- EXT.P8(B) : COPY OF THE SAID ESSENTIALITY CERTIFICATE ISSUED BY DR. MAYA S. TO ANOOPA K.JACOB.
- EXT.P9 : COPY OF THE STATEMENT ISSUED BY DR.MAYA S.
- EXT.P10 : COPY OF THE REPRESENTATION DATED 07/10/15 SUBMITTED BEFORE THE ASSISTANT POLICE COMMISSIONER , MATTANCHERRY.

RESPONDENTS' EXHIBITS:- NIL

//TRUE COPY//

P.A. TO JUDGE

K. VINOD CHANDRAN, J.

W.P(C). No.38260 of 2015-F

Dated this the 17th day of December, 2015.

JUDGMENT

The petitioner is aggrieved with the fact that the petitioner's suspension is being continued without any progress made in the disciplinary enquiry. The petitioner was suspended as per Ext.P1 dated 30.03.2015. The petitioner also has been issued a charge-sheet as indicated at Exts.P3 & P4. The allegation against the petitioner is that he had interpolated the consultation fees in a prescription, which he had submitted for reimbursement of medical expenses. The petitioner's contention is only that the

enquiry proceedings be culminated immediately, especially since the petitioner is placed on suspension.

2. The learned Standing Counsel appearing for the respondent would submit, on instructions, that the petitioner has not been co-operating with the enquiry. It is submitted that the petitioner had walked out, after the Doctor was examined, without cross-examining her. The learned Standing Counsel also refers to Ext.P10, which is a complaint said to have been filed by the petitioner against the Doctor and one another employee of the respondent organization, alleging that the disciplinary enquiry now proceeded against him is a malafide attempt.

3. In fact the petitioner alleges in Ext.P10 that the Doctor, after having accepted the

consultation fees, made a false statement in Ext.P9. It is not clear how an offence of cheating would be attracted, even if such allegation is found correct. In any event, the learned Standing Counsel contends that the Doctor was examined and she has deposed that she had not received any amount as consultation fee from the petitioner. That would be a matter, which has to be considered in the enquiry. But, however, considering the fact that the enquiry has been delayed only for the reason of the non-co-operation of the petitioner, this Court is of the opinion that there could be no directions issued, in the writ petition especially since the conduct of the petitioner is not above board.

4. However, the respondent shall get the convenience of the Doctor and proffer her for

cross-examination as expeditiously as possible. The learned Standing Counsel also submits that the enquiry is posted for next week. If the petitioner co-operates, the enquiry shall be completed in his presence, and if he doesn't, the specific reason shall be stated and the petitioner shall be declared *exparte* and the enquiry continued.

The writ petition would stand dismissed in limine with the above observation.

Sd/-

**K. VINOD CHANDRAN,
JUDGE.**

//True Copy//

P.A. to Judge.

sp/18/12/15