

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.12375 of 2015 and
M.P.Nos.1 and 2 of 2015

A.Govindaraj

... Petitioner

vs.

1.The Director,
Vigilance and Anti Corruption,
Chennai.

2.P.Raja

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of writ of Certiorari, to call for the records in pertaining to the letter issued by the 2nd respondent vide DE S4/2012/POL/SIC on 28.05.2014 and quash the same.

For Petitioner : Mr.R.V.Venkatesan

For Respondents : Mr.V.Jayaprakash Narayanan
Spl.Govt.Pleader for R1

O R D E R

The petitioner is an Inspector of Police. He was issued with notice dated 28.05.2014 to appear for an enquiry relating to possession of disproportionate assets. Instead of submitting his explanation to the said notice, the petitioner has come up with this writ petition.

2. In my view, the petitioner shall first submit an explanation to the said notice and it is for the authority concerned to decide as to whether he should accept the explanation or not.

3. In this context, it is relevant to refer to the judgment of the Supreme Court in Union of India vs. Kunisetty Satyanarayana reported in (2006) 12 SCC 28. In paragraphs, 13 to 16, the Supreme Court held as follows:

"13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide Executive Engineer, Bihar State Housing Board v. Ramesh Kumar

Singh, Special Director v. Mohd.Ghulam Ghouse, Ulagappa v. Divisional Commr., Mysore, State of U.P. V. Brahm Datt Sharma etc.

14. 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 Petition lies when some right of any party is infringed. A mere show cause notice or charge sheet does not infringe the right of anyone. 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.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show cause notice or charge sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge sheet or show cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter."

4. At this juncture, the learned Special Government Pleader would submit that a case has also been registered in DVAC HQ Cr.No.2 of 2015 under Sections 13(1)(e) and 13(2) of Prevention of Corruption Act, 1988 r/w 109 I.P.C.

5. For the aforesaid reasons, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar (Judicial)

/true copy/

Sub Asst. Registrar

To

The Director
Vigilance and Anti Corruption
Chennai

1 cc to Government pleader, Sr. 22895

W.P.No.12375 of 2015

TEJ (CO)
kk 20/5



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