

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2015

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THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

W.P.No.18649 of 2014
and M.P.No.1 of 2014

M.Mahalingam

...

Petitioner

Vs

- 1.Union of India rep.by
its Joint Secretary,
Department of Personnel and
Administrative Training,
North Block,
New Delhi-110 001.
- 2.The Secretary to Government,
Public Department,
Fort St. George,
Chennai-600 009.
- 3.The Secretary to Government,
Home (Police) Department,
Fort St. George,
Chennai-600 009.
- 4.The State rep.by
The Agricultural Production Commissioner
and the Secretary to Government,
Fort St. George,
Chennai-600 009.
- 5.The Director of Agriculture,
Ezhilagam,
Chepauk,
Chennai-600 005.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for a Writ of Mandamus, directing the 5th respondent to initiate action based on the representations submitted by the petitioner to him on 20.02.2014 and 12.06.2014 against (1)Mr.R.Raman, (2) Mr.P.Sakthivel and (3)Mr.K.Badrappan, involved in crime No.12 of 2014, City Crime Branch, Cyber Cell, Coimbatore, within a time frame, failing which consequential direction may be issued to the

respondents 1 to 3 to initiate action against the 5th respondent under appropriate rules for his dereliction and administrative excess.

For Petitioner : Mr.K.Rajkumar

For Respondents : Mr.P.Sanjai Gandhi,
Additional Government Pleader

ORDER

This petition has been filed seeking for a direction to the 5th respondent to initiate action based on the representations submitted by the petitioner to him on 20.02.2014 and 12.06.2014 against (1) Mr.R.Raman, (2)Mr.P.Sakthivel and (3)Mr.K.Badrappan, involved in Crime No.12 of 2014, City Crime Branch, Cyber Cell, Coimbatore, within a time frame, failing which, consequential direction may be issued to the respondents 1 to 3 to initiate action against the 5th respondent under appropriate rules.

2.It is seen that one Mr.R.Raman, working as Assistant in the office of the Joint Director of Agriculture, Coimbatore and others had created bogus E-mail ID in the name of the petitioner and sent anonymous letters to various authorities in the Department. On the complaint lodged by the petitioner, the respondent police registered a case in Crime No.12 of 2014 for offence under Section 419(ii) IPC and Section 66D of the Information Technology Act, 2000, and after completing the investigation, they have filed a final report for offences under Sections 120-B and 419 IPC and Section 43, 66, 66D of the Information Technology Act, 2000, against Mr.R.Raman and others. The same has been taken on file in C.C.No.14 of 2015 by the learned Judicial Magistrate No.VII, Coimbatore. While so, it is alleged by the petitioner that the said Raman is continuously causing trouble to the witnesses with his influence. It is also alleged that he is tampering the witnesses and that they did not give evidence properly before the trial Court.

3.The learned counsel for the Petitioner also brought to the notice of this Court to Rule 17 (e) (1) of the Tamil Nadu Civil Services (CCA) Rules, which states as follows:

"17.(e) (1) A member of a Service may be placed under suspension from service, where

(i) an enquiry into grave charge against him is contemplated, or is pending; or

(ii) a complaint against him of any criminal offence is under investigation of trial and if such suspension is necessary in the public interest."

4. Based on the Rules, the learned counsel for the petitioner submitted that a Mandamus should be issued to the authority for placing the said Raman under suspension on the ground that a final report has been filed and the trial Court has taken cognizance of offences as stated above. The 4th and 5th respondents have filed a counter affidavit, wherein in Paras 7 to 10, they have stated as follows:

"7. It is submitted to state Thiru R.Raman, Assistant has been transferred from this office to Office of the Joint Director of Agriculture, Krishnagiri, vide proceedings Number OPS 1/67777/2014 dated 13.06.2014 of the Additional Director of Agriculture, Chennai and vide proceedings A2/5077/2014 Dt. 30.06.2014 of the joint Director of Agriculture, Krishnagiri. Thiru.R.Raman, Assistant was relieved from Office of the Joint Director of Agriculture, Coimbatore on the After Noon of 01.07.2014 vide proceedings Number A3/8350/2014 Dt.01.07.2014 and reallocated to Director of Seed Certification, Coimbatore vide this office proceedings Number OPS 1/67777/2014 dated 13.08.2014.

8. It is submitted to state Thiru P.Sakthivel, Assistant has been transferred from this office to Office of the Joint Director of Agriculture, Thiruvellore vide proceedings Number OPS1/67777/2014 Dt.13.06.2014 of the Additional Director of Agriculture, Chennai and vide proceedings Number aa.aa 1/5457/2014 dt.04.07.2014 of the Joint Director of Agriculture, Thiruvellore. Thiru.P.Sakthivel, Assistant was relieved from Office of the Joint Director of Agriculture, Coimbatore on the After Noon on 04.07.2014 vide proceedings Number A3/8350/2014 Dt.04.07.2014.

9. It is submitted to inform that para 17 to 19 not related to our department.

10. It is submitted that there was no provision in Tamil Nadu Civil Services (Discipline and Appeal) Rules, to suspend the employee mere registered a FIR against him."

5. The learned counsel for the petitioner submitted that since the final report has been filed, the Authorities have power to place the said Raman under suspension. This Court cannot issue Mandamus to the Authorities to implement the provisions of Rule 17(e) of the Tamil Nadu Civil Services (CCA) Rules. Hence, this Writ Petition is closed, with a liberty to the petitioner to give a detailed representation to the concerned Authorities, enclosing a copy of the final report, filed by the Police, to take appropriate action in accordance with law on the representation. If the said Raman is

tampering the witnesses, steps may also be taken for cancellation of his bail. Consequently, connected miscellaneous petition is also closed. No costs.

mps

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

- 1.Union of India rep.by
its Joint Secretary,
Department of Personnel and
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New Delhi-110 001.
- 2.The Secretary to Government,
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Fort St. George,
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and the Secretary to Government,
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- 5.The Director of Agriculture,
Ezhilagam,
Chepauk,
Chennai-600 005.

+ 1 cc to Mr.K.Rajkumar, Advocate SR 21906

+ 1 cc to Mr.R.Soundararajan, Advocate SR 21918

vgi(co)
prk6/5

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