

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.05.2016

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P.No.17203 of 2016 and

W.M.P.No.14674 of 2016

J.Bheeman

... Petitioner

Vs.

1.The Managing Director,
Tantea, Coonoor, Nilgiris District.

2.The Divisional Manager,
Cherambady Tea Division,
Cheramdabby, Nilgiris District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of writ of certiorari calling for the records of the 1st respondent in his letter/Memo No.599/2016/E dated 04.04.2016 and quash the same and proper in the circumstances of the case.

For Petitioner : Mr.J.Franklin
For Respondents : Mr.M.K.Subramanian,
Special Government Pleader (Forests)

O R D E R

Jesus' words "Father, forgive them for they do not know what they are doing" are found in Luke 23:34.

1.1. Whether the respondent believed that they can take such a defence and escape from the consequences of law, is the doubt arising in the mind of the Court on hearing the facts of the case.

1.2. In other words, whether, a matter sub judice, can be a subject matter of charge, is the issue raised in this writ petition.

2. Heard both sides.

3.This Writ Petition has been filed challenging the impugned proceedings dated 04.04.2016 by which Charge Nos.I and II have been framed against the the petitioner and the charges read as under:

"Charge I

Wrongly alleged in writ petition that he is a
"Management cadre employee"

Thiru.J.Bheeman, Tea Maker Grade II has filed two Writ Petitions in W.P.No.19574 of 2014 and W.P.No.12196 of 2015 wherein the said employee has questioned in W.P. grounds on the validity/authority an order of suspension/charge sheet issued to him by the Divisional Manager, Cherambady Tea Division, as he alleged that he is a "Management cadre employee" under the Staff Services Rules of the Corporation and the Managing Director along has got the authority to take disciplinary action against him.

Hence the charges

Charge - II

Contradictory statement in writ petition and shows lack of integrity

2. He has filed a third Writ Petition No.3631 of 2016 and got stay on the operation of the charge sheet issued by the Managing Director of this Corporation. Further, he has sent a legal notice dated 13.01.2016 by alleging that he comes under supervisory cadre and immediate superior is the Divisional Manager, which is contradictory.

Hence the charges."

3. A perusal of the charges would go to show that it relates to the contentions raised by the petitioner in W.P.No.19574 of 2014, W.P.No.12196 of 2015 and W.P.No.3631 of 2016. When the writ petitions filed by the petitioner had been admitted by the Court, the Competent authority to adjudicate is only the court. When the matter is sub judice, it is not open to the respondents to issue a charge memo.

4. Then, the question is what is sub judice. In law, sub judice, means "under judgment", i.e. a particular case or matter is under trial or being considered by a judge or court. It is generally considered inappropriate to comment publicly on cases sub judice, which can be an offence in itself, leading to contempt of court proceedings. This is particularly true in criminal cases, where publicly discussing cases sub judice may constitute interference with the administration of justice.

4.1. There are two forms of contempt of court:

1. Statutory contempt of court under the Contempt of Court Act 1981, which criminalises the publication of material which creates a substantial risk that the course of justice in the relevant proceedings would be seriously impeded or prejudiced; and

2. Common law contempt, which targets any other action which is intended to interfere with the administration of justice, including interfering with pending or imminent court proceedings.

5. Without knowing the implication of what the respondent is doing, the charge memo has been issued. But, it is the time that the respondent should realize that the act complained of by the petitioner against them amounts to contempt of Court. The act of issuing charge memo would amount to denial of justice.

6. Under the stated circumstances, the charge memo dated 04.04.2016 issued by the second respondent stands quashed and the Writ Petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Managing Director,
Tantea, Coonoor,
Nilgiris District.

2.The Divisional Manager,
Cherambady Tea Division,
Cheramdabby, Nilgiris District.

+1 cc to the Special Government pleader(Forests) sr.29149
+1 cc to M/s.J.Franklin Advocate sr.28146

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