

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2016

CORAM

THE HON'BLE MR. JUSTICE B.RAJENDRAN

WP.No. 25258 of 2016

H.M.Shahul Hameed

...Petitioner

Vs

1.The State Government of Tamil Nadu
rep. by Principal Secretary
Home Department
Secretariat
St.Fort George
Chennai-600 009.

2.The Director General of Police
Tamil Nadu
Chennai-600 004.

3.The Superintendent of Police
Cuddalore District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the 1st respondent to consider the petitioner's further representation, dated 18.11.2014, with respect to the charges framed against him under Rule 17(1)(b) of TNCS (CC&A) Rules, 1955, within the time limit as fixed by this Court enabling him to perform the Haj pilgrimage during the period from 10.08.2016 to 28.09.2016 and pass such further orders as this Court may deem fit and proper.

For Petitioner : Mr.M.Guruprasad

For Respondents: Mr.A.Kumar
Special Government Pleader

O R D E R

By consent, this Writ Petition is taken up and disposed of at the stage of admission itself.

2. The petitioner is presently working as the Deputy Superintendent of Police, District Crime Records Bureau, at

Cuddalore District. He has made a representation, on 12.01.2016, to the 3rd respondent, requesting to permit him to go to Haj, a pilgrimage trip, at Makkah and Madina of Saudi Arabia, along with his wife during 2016. He has made another representation, dated 30.04.2016, to the 3rd respondent, requesting to forward his representation to the competent authority viz., 2nd respondent. While so, the 3rd respondent, by a communication, dated 20.05.2016, rejected his request on the ground that a disciplinary proceeding is pending against him. The petitioner again made a representation to the 2nd respondent, on 06.06.2016, to permit him to go to Haj, a pilgrimage trip, at Makkah and Madina of Saudi Arabia, along with his wife, during the period between 10.08.2016 and 28.09.2016. The said representation is pending with the 2nd respondent and till date, there is no response. Hence, the present Writ Petition has been filed.

3. Mr.M.Guruprasad, the learned counsel for the petitioner would submit that the petitioner is not going to Haj, through Haj pilgrimage Committee, he wants to go in his individual capacity. Therefore, he sought permission by making a representation to the 2nd respondent, dated 06.06.2016, but, till date, the same was not considered. He would further add that the earlier representation made by the petitioner, on 12.01.2016, was rejected by the 3rd respondent, who is not the competent authority, and who is his immediate Superior and therefore, he has made a representation to the 2nd respondent, who is the competent authority to pass orders on his representation. He would further add that in fact, as per the G.O.Ms.No.109, dated 31.07.2006, the Director General of Police is the competent authority to consider and pass orders, based on the representation. He would further add that merely because, there is a departmental enquiry pending against the petitioner, that by itself is not a bar to go to Haj, a pilgrimage trip. He would further add that even a person, who is going to a pilgrimage trip with the limited passport, was given no objection, while so, the petitioner, being a genuine Government servant, should not be deprived of the said benefit and hence, he seeks to direct the 2nd respondent, who is the competent authority, to consider his representation sympathetically and if any condition is imposed, the petitioner is ready and willing to abide by the same.

4. Mr.A.Kumar, the learned Special Government Pleader, who took notice on behalf of the respondents, would submit that the earlier representation made by the petitioner to the 3rd respondent was rejected, on 20.05.2016, in view of the fact that a departmental enquiry is pending against him. He would further add that as per the G.O.Ms.No.109, dated 31.07.2006, the 2nd respondent viz., Director General of Police is the competent

authority to consider and pass orders on the representation.

5. Heard both sides. I have considered the above submissions.

6. In view of the emergency pleaded by the petitioner that he wants to go to Haj, a pilgrimage trip, between 10.08.2016 and 28.09.2016, suffice to state that the 2nd respondent viz., The Director General of Police shall consider the representation of the petitioner, dated 06.06.2016, regarding giving permission to him to go to Haj, a pilgrimage trip, between 10.08.2016 and 28.09.2016, and pass appropriate orders, on merits and in accordance with law, within a period of ten days from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

paa

To

1.The Principal Secretary
State Government of Tamil Nadu
Home Department
Secretariat St.Fort George Chennai-600 009.

2.The Director General of Police
Tamil Nadu Chennai-600 004.

3.The Superintendent of Police
Cuddalore District.

1 cc to Mr.M.Guruprasad, Advocate, sr.42684
1 cc to Government Pleader, sr.42757

W.P.No. 25258/2016

bvr co
kra 02.08.2016