

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2016

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE V.PARTHIBAN

Writ Petition Nos.27930 to 27933 of 2016
and WMP.Nos.24104 to 24110 of 2016

M.Rathanavelu Petitioner in W.P.27930/2016

Kalaiselvi Petitioner in W.P.27931/2016

K.Annamalai Petitioner in W.P.27932/2016

C.Palaniyappan Petitioner in W.P.27933/2016

Vs.

1.The Principal District Judge
Tiruvannamalai District

2.The Principal Subordinate Judge
Tiruvannamalai District Respondents 1 & 2 in W.Ps.27930
and 27931 of 2016

1.The Principal District Judge
Tiruvannamalai District

2.The Principal District Munsif
Cheyyar
Tiruvannamalai District Respondents 1 & 2 in
W.P.27932 of 2016

1.The Principal District Judge
Tiruvannamalai District

2.The Special Subordinate Judge
for MCOP Cases
Tiruvannamalai
Tiruvannamalai District Respondents 1 & 2
in W.P.27933 of 2016

Writ Petitions filed under Article 226 of the Constitution of India, praying for a writ of Certiorari, calling for the records pertaining to the impugned orders in Dis No. 258/2016 dated 28.03.2016, Dis No.258/2016, dated 28.3.2016, Dis.No.187/2016 dated 1.4.2016 and Dis No.134/2016 dated 2.4.2016, on the file of the 2nd respondent and quash the same.

For Petitioner : Mr.R.Neelakandan for
in all W.Ps. Mr.C.Mahendran

For Respondents : Mr.V.Vijayashankar
in all W.Ps.

COMMON ORDER

(Order of the Court was made by Huluvadi G.Ramesh, J)

Heard the learned counsel for the respective parties.

2. Regarding the allegation of misappropriation of the cheque amount issued in the name of one Advocate, in L.A.O.P.No.64/1988, on the file of the Principal Sub Court, Tiruvannamalai, the petitioner in L.A.O.P., had sent a complaint to the Principal Subordinate Judge, Tiruvannamalai, stating that the compensation amount deposited in the L.A.O.P., which is due for payment has not been paid to him in spite of his petition being filed 11 months ago and he is yet to receive the compensation amount from the court.

3. On verification of the case records by the office of the Principal Sub Court, Tiruvannamalai, various lapses have been found and memo have been issued to the petitioners herein calling for their explanation and the petitioners herein also submitted explanation dated 06.01.2016. However, finding the explanation not satisfactory, the District Court, Tiruvannamalai, vide Official Memorandum of District Judge, Tiruvannamalai, in Dis No.1624/16 dated 24.03.2016, directed to lodge a criminal complaint against the erring officials and to take disciplinary action. Accordingly, a complaint was given vide Dis No.257/16 dated 24.03.2016 to the Superintendent of Police for registration of FIR.

4. Based on the complaint, the Inspector of Police, District Crime Branch, Tiruvannamalai, had registered a case in Cr.No.4/2016 dated 25.03.2016 against the petitioners.

5. In this regard, in view of the High Court's direction, for free and fair enquiry and in order to avoid tampering of records, the Principal Subordinate Judge, Tiruvannamalai, vide Proceedings dated 28.03.2016, 28.03.2016, 01.04.2016 and

02.04.2016 respectively, placed the petitioners under suspension pending disciplinary enquiry under sub-rule(e) of Rule 17 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The said suspension orders are under challenge in the above Writ Petitions.

6. The argument of the learned counsel for the petitioners is that in the very order of suspension, the reason stated is that for conducting free and fair enquiry and to avoid tampering of records, the erring officials could be placed under suspension, however, the petitioners have no access to the records and hence, there cannot be any tampering at all. The learned counsel further stated that the petitioners would not interfere in any way with the free and fair enquiry, and therefore, sought for quashing the order of suspension. It is also the contention of the learned counsel for the petitioner that even after the passing of the suspension order dated 28.03.2016, neither charge memo nor enquiry proceedings have been initiated against the respondents.

7. Refuting the contentions raised on behalf of the petitioners, Mr.V.Vijayashankar, learned counsel appearing for the respondent submitted that on the allegation regarding misappropriation, dereliction of duty on the part of the petitioners came to light and the vexatious issue in this regard is that the claimants, whose lands were acquired could not receive the compensation amount. He further stated that the matter is under investigation; until a charge memo is filed and enquiry proceedings is completed and a final report is laid, the involvement of the petitioners in the allegations cannot be decided in this matter against them.

8. We have considered the submissions made on both sides and perused the records carefully.

9. Based on the complaint, the Inspector of Police, District Crime Branch, Tiruvannamalai, had registered a case in Cr.No.4/2016 against the petitioners herein and therefore, for the present, the veracity of the involvement of the petitioners or otherwise insofar as the allegation against them has to be proved and on the investigation of the matter by the Disciplinary Authority, there are every chance of petitioners to substantiate their case in respect of their innocence and non-involvement.

10. The apprehension of the petitioners is that even before the charge memo has been issued on the petitioners, order of suspension has been passed and by virtue of the said order of suspension, they are put to irreparable loss and thus, sought to quash the impugned order.

11. Till the enquiry is completed in respect of the allegations framed against the petitioners, which itself, is based on the First Information Report and the same is concluded, nothing is proved against the petitioners. However, there is no justification in harassing the petitioners rather the respondent has to look into the truth of the matter and the allegations and also the materials to be produced by the disciplinary authority and thereafter only, further action shall be taken.

12. In the circumstances, the Writ Petitions, being bereft of merits at this stage and also being premature, the same are dismissed. However, it will not preclude the petitioners herein to move this court at the appropriate stage, if they are aggrieved by any further order passed in this regard.

13. It is for the respondent/authority to proceed in accordance with law, against the petitioners and also to take appropriate decision at the earliest point of time, to put an end to the litigation. The petitioners could also make a representation to the authority concerned seeking to expedite the matter in this regard. No costs. Consequently, connected WMPs are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

nvsri
To

- 1.The Principal District Judge
Tiruvannamalai District
- 2.The Principal Subordinate Judge
Tiruvannamalai
Tiruvannamalai District
- 3.The Principal District Munsif
Cheyyar
Tiruvannamalai District
- 4.The Special Subordinate Judge
for MCOP Cases
Tiruvannamalai, Tiruvannamalai District.

+4cc's to Mr.C.Mahendran, Advocate, S.R.No.65946

W.P.Nos.27930 to 27933 of 2016

TM(CO)
CA(20/12/2016)