

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2016

CORAM

THE HON'BLE Mr. JUSTICE M.SATHYANARAYANAN

W.P.No. 37047 of 2016

and

WM.P.No.31845 of 2016

P.Devarajan

...Petitioner

-Vs-

The Commissioner,
Salem City Municipal Corporation,
Salem.

...Respondent

This petition is filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus forbearing the respondent from further proceedings with the charge memo dated 13.2.2016 made in Na.Ka.No.L7/1045/2011 till the completion of the case in Spl.C.C.No.85 of 2014 on the file of the Special Court for Prevention of Corruption Act Cases, Salem.

For Petitioner : Mr.M.Devaraj

For Respondent : Mr.S.Diwakar,
for Salem Corporation

ORDER

By consent, the writ petition is taken up for final disposal.

2. The petitioner, while working as a Field Assistant in the respondent Corporation was involved in the alleged trap and recovery of Rs.1000/- by way of illegal gratification. In this regard, the Vigilance and Anti Corruption Department registered a case in Crime No.2/AC/2011 for the commission of the offence under Section 7 of Prevention of Corruption Act, 1988 and after investigation, it was altered by adding Sections 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988. Subsequently, the charge sheet was taken on file and numbered as S.C.No.85 of 2014 and the same is pending on the file of the Court of Special Judge for Prevention of Corruption Act Cases, Salem.

3. Learned counsel for the petitioner has drawn the attention of the Court to the concerned charge memo dated

13.2.2016 and would submit that for the same set of allegation, the petitioner has been proceeded with the departmental enquiry and on submission of the written statement of his defence in the criminal case, his defence may get exposed if both the department enquiry and the criminal case are proceeded simultaneously. Learned counsel further submitted that since both the proceedings are on the same set of charges, the departmental enquiry may be deferred till the completion of the criminal proceedings and prays for appropriate orders.

4. Per contra, learned standing counsel appearing for the respondent Corporation would submit that there is no bar for simultaneous prosecution of the criminal proceedings as well as the departmental proceedings and as such, the prayer sought for by the petitioner may not be granted.

5. This Court, considered the rival submissions and also perused the papers available.

6. A perusal of the proceedings of the respondent dated 16.07.2012 would disclose that he has agreed for prosecution of the petitioner under the Prevention of Corruption Act, 1988, and the charge memo issued by the very same official would disclose that both were on the same set of allegation. As rightly contended by the learned counsel for the petitioner, in the event of departmental enquiry proceeded further and the petitioner is to submit his written statement of the defence in the criminal case, his defence may stand exposed and he may be put to prejudice in the criminal prosecution pending in S.C.No.85 of 2010 on the file of Special Court for Prevention of Corruption Act.

7. In the result, the writ petition is disposed of and the departmental proceedings in the form of charge memo dated 13.2.2016 made in Na.Ka.L7/1045/2011 on the file of the respondent is stayed till the completion of the case in S.C.No.85 of 2014 on the file of the Special Court for Prevention of Corruption Act Cases, Salem. It is made clear that the petitioner who is arrayed as an accused in the above said case shall extend his maximum cooperation before the trial Court for expeditious disposal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

vsi

To

1. The Commissioner,
Salem City Municipal Corporation,
Salem.

2. The Special Court for Prevention of Corruption
Act Cases, Salem.

1 cc to Mr.M. Devaraj, Advocate, Sr. 71752

1 cc to Mr.S. Diwakar, Advocate, Sr. 71714

W.P.No.37047 of 2016

NM (CO)
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