



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE **S.MANIKUMAR**

and

THE HONOURABLE MR.JUSTICE **C.T.SELVAM**

W.A.(MD).No.452 of 2016 &

C.M.P.(MD).No.3215 of 2016

in WP(MD)No.17400 of 2015

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Municipal Administration and Water Supply
(ME-2) Department,
Fort St.George, Secretariat, Chennai-600 009.

2. The Commissioner,
Municipal Administration,
Chepauk,
Chennai-600 005.

.. Appellants/Respondents

versus

N.Rajasekaran Nair

.. Respondent/Petitioner

Appeal filed under Clause 15 of Letters Patent to set aside the order of this court dated 25.09.2015 made in W.P.(MD).No.17400 of 2015.

Prayer in WP(MD). 17400/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, for the issue of a Writ of Mandamus directing the respondents to pass final orders on the charge memo passed by the 2nd respondent in Roc.No.59640/2007/OP3-1, dated 11.06.2008, within the time frame fixed by this Honble Court.

For Appellant : Mr.C.Selvaraj
Special Government Pleader

JUDGMENT

(Judgment of the Court was made by **S.MANIKUMAR ,J.**)

As no adverse order is passed against the respondent, notice is waived. The order impugned in this writ appeal is a direction to the Secretary, Municipal Administration and Water Supply (ME-2) Department, Chennai, appellant No.1, to pass orders on the disciplinary proceedings initiated in Roc.No.59640/2007/OP3-1, dated 11.06.2008, a charge memorandum, issued by the Commissioner of Municipal Administration, Chennai, appellant No.2.

2. Challenging to the impugned order on the ground that the



Vigilance and Anti Corruption Department has filed a case against the respondent and that evidence adduced against the respondent is similar and therefore, the disciplinary proceedings initiated in charge memorandum, dated 11.06.2008, cannot be concluded as there is likelihood of divergent conclusions, cannot be accepted for the reason that proceedings in G.O.(D).No.150 Municipal Administration and Water Supply Department, dated 27.04.2006, is for an enquiry into allegations of assets disproportionate to the known sources of income of the respondent.

3. Charges framed against the first respondent are as follows:-

"During the year 2003-2004, Thiru N.Rajasekaran Nair, (A.O.I), formerly Commissioner, Dindigul Municipality and Thiru K.Dheenadayalan, (A.O.II), formerly Municipal Engineer, Dindigul Municipality issued tender notices and work orders to a single contractor for 5 works at Athoor Kamarajar Dam, without approval of the Municipal Council and thereby violated the Section 68(2) of Tamil Nadu District Municipality Act and failed to communicate the tender details to the District Tender Bulletin for the work of construction of retaining wall at Athool Kamarajar Dam to the tune of Rs.5.20 lakhs by violating the Rule 8 of Tamil Nadu Transparency in Tenders Act, 1988 and the Tamil Nadu Transparency in Tender Rules, 2000.

ii) Thiru N.Rajasekaran Nair, (A.O.I), formerly Commissioner, Dindigul Municipality and Thiru K.Dheenadayalan, (A.O.II), formerly Municipal Engineer, Dindigul Municipality, had issued tender notices and work orders to a single contractor for the following works. During the year 200304, without approval of the Municipal Council and thereby violated the Section 68(2) of Tamil Nadu District Municipality Act.

1.	Providing infiltration well at Attur Head Works	-Rs.7,00,000/-
2.	Construction of step in down streamside of Attur Dam	-Rs.1,60,000/-
3.	Construction of retaining wall and Rivertment at Attur Head works.	-Rs.5,00,000/-
4.	Construction of retaining wall at Attur Head Works	-Rs.5,20,000/-
5.	Construction of pump room and Diesel Generator room at Attur Head works.	-Rs.2,50,000/-

As per Rule of Tamil Nadu Transparency in Tender Act 1988 and the Tamil nadu Transparency in Tender rules 2000, subject tot he provisions of rule 10, notices inviting tenders and decision on tenders in all cases where the procurement exceeds Rs.5.00 lakhs and below Rs.25.00 lakhs shall be published in the District Tender bulletin of the District.



The Municipal Commissioner and Municipal Engineer had failed to communicate the tender details in the District Tender bulletin for the work of construction of retaining wall at Athoor Kamarajar Dam to the tune of Rs.5.20 lakhs and violated the Rule 8 of Tamil Nadu Transparency in Tenders Act 1988 and the Tamil Nadu Transparency in Tender Rules 2000.

4. The above said charges are independent. When the proceedings under Rule 17(b) of Tamil Nadu Municipal Service (Discipline and Appeal) Rules have been initiated and the enquiry has also been completed, it is for the disciplinary authority, namely, the Commissioner, Municipal Administration, Chennai, or the Government, the Secretary, Municipal Administration and Water Supply (ME-2), Department, Chennai, as the case may be, to arrive at a logical conclusion based on the finding recorded in the enquiry, after affording reasonable opportunity to the respondent to submit his further representation on the adverse finding if any. There is no correlation between the disciplinary proceedings and the vigilance case, said to have been initiated on the allegations that the first respondent has accumulated wealth disproportionate to known sources. Both are conceptually different and distinct.

5. In the light of the above discussion, this Court is not inclined to interfere with the impugned order and the writ appeal is dismissed. No costs. Connected miscellaneous petition is also dismissed.

Sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Municipal Administration and Water Supply
(ME-2) Department,
Fort St. George, Secretariat,
Chennai-600 009.
 2. The Commissioner,
Municipal Administration,
Chepauk,
Chennai-600 005.
- +1cc to Special Government Pleader in SR.No.17016.
CN/AN-MP/4.04.2016/3P-4C