

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.5614 of 2017

M.Suresh

..Petitioner

Versus

- 1.The Director,
Directorate of School Education,
DPI Campus, College Road,
Nungambakkam, Chennai - 600 006.
- 2.The Joint Director(P),
Department of School Education,
DPI Campus, College Road,
Chennai - 600 006.
- 3.The Chief Educational Officer,
Vellore District.
- 4.The Head Master,
Govt.Boys Higher Secondary School at Takkolam,
Vellore District.

..Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the third respondent in Na.Ka.No.8801/A3/2016, dated 29.12.2016 and quash the same as arbitrary exercise of power, illegal and non application of mind and further direct the second respondent to consider and pass orders on petitioner representation dated 04.01.2017 in accordance with law within any prescribed period of time.

For Petitioner :Mr.R.Venkatesan

For Respondents :Mr.J.H.Iniyan
Government Advocate

O R D E R

The notice dated 29.12.2016 issued under Rule 17(a) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules, is under challenge in this writ petition. On account of certain allegations against the writ petitioner, the third respondent initiated disciplinary action against the writ petitioner and issued a charge memo under Rule 17(a) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules, for the purpose of imposing minor penalties under the said rules. On receipt of the show cause notice issued under rule 17(a) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules, the writ petitioner submitted his explanation on 03.01.2017.

2. The learned counsel appearing for the writ petitioner submitted that the writ petitioner has submitted his explanation and requested the respondents to furnish certain relevant documents in relation to the allegations raised in the show cause notice. But, the documents sought for by the writ petitioner have not been given to the writ petitioner. Accordingly, he was not in a position to submit his detailed explanations denying the charges. This Court is of the view that the documents sought for by the writ petitioner are relating to the charges or not and whether those documents are to be furnished to the writ petitioner or not, cannot be decided at this point of time and the writ petitioner, if aggrieved, can file an application under the Right to Information Act and get the documents. Under the provisions of the Right to Information Act, the authorities are bound to furnish the documents sought for by the writ petitioner. However, certain documents are protected or need not be produced. If such documents are to be protected as confidential, the same need not be produced to the writ petitioner and in such event, the request is to be rejected. The Act itself was enacted for the purpose of developing the transparency in public administration. The writ petitioner instead of getting the documents through the manner known to law has moved this writ petition, challenging the show cause notice issued under rule 17(a) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules, in order to protract or prolong the issue. Such an attitude of the writ petitioner is to be discouraged and once the disciplinary proceedings are initiated, it is the duty of the delinquent to participate in the disciplinary proceedings and defend his case in order to prove his innocence. Such is the principles laid down for the purpose of completing the disciplinary proceedings.

3. This Court is not in a position to appreciate the prayer sought for in this writ petition, by the writ petitioner. Further, the order impugned in this writ petition is only the show cause notice issued under rule 17(a) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules and summary

procedure is contemplated under the rules. The disciplinary authority, on receipt of the explanations, has to consider its merits and demerits and pass orders in accordance with law. Thus, the prayer sought for in this petition cannot be granted, at this stage and accordingly, the writ petition is dismissed as being devoid of merits. However, there is no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ms/kak

To

- 1.The Director,
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Vellore District.

+1 cc to Mr.R.Venkatesan Advocate sr 54452
+1 cc to the Government Pleader sr 55047

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gj(co)
aa18/08/2017