

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18-07-2017

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.3868 of 2017

And

WMP No.3930 of 2017

K.Chandirasekaran

.. Petitioner

vs.

1. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam,
Chennai-600 034.

2. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam,
Chennai-600 034.

3. Thiru N.Visakamurthy,
Assistant Commissioner/Enquiry Officer,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam,
Chennai-600 034.

.. Respondents

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the first respondent in Na.Ka.No.28811/2015/P3 dated 14.11.2016 and the subsequent proceedings issued by the first respondent in Na.Ka.No.28811/2015/P3 dated 18.1.2017 and to quash the same and consequently, direct the first respondent to conduct fair enquiry on the charge memo issued in Se.Mu.Na.Ka.No.1836/2014/E3 dated 11.6.2015 issued by the second respondent by appointing an Enquiry Officer other than the third respondent in compliance to the orders passed in WP Nos.36291 and 38536 of 2015 dated 3.10.2016, after regularising the period of service of the petitioner from 11.6.2015 till 3.11.2016.

For Petitioner : Mr.A.Maheshnath
For Respondents : Mr.M.Maharaja,
Special Government Pleader.

ORDER

The relief sought for in this writ petition is challenging the proceedings of the first respondent dated 14.11.2016 and 18.1.2017.

2. The writ petitioner is facing disciplinary proceedings under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. On appointment of an Enquiry Officer, the enquiry commenced and the writ petitioner raised certain allegations against the Enquiry Officer stating that no reasonable opportunity was given to him.

3. In this regard, the writ petitioner had submitted an application, seeking change of Enquiry Officer. However, the change of Enquiry Officer application was rejected on the ground that there is no serious allegation against the Enquiry Officer, except that he has not allowed the witnesses to be cross-examined.

4. However, while rejecting the application, seeking change of Enquiry Officer, the respondents have stated that opportunities will be given as per the directions issued by this Court in WP Nos.36291 and 38536 of 2015. This Court, in writ petitions viz., WP Nos.36291 and 38536 of 2015, earlier filed by the very same writ petitioner, passed orders on 3.10.2016, remitted the matter back to the first respondent for fresh enquiry. Further, a direction was issued to the Commissioner Hindu Religious and Charitable Endowments Department, to reinstate the petitioner into service and to examine all the witnesses referred to in the charge sheet, by affording an opportunity of cross-examination to the writ petitioner.

5. This Court, having issued such a direction to the respondents to comply with the principles of natural justice, by providing all reasonable opportunities to the writ petitioner, again the writ petitioner has chosen to file the present writ petition, seeking change of Enquiry Officer and the rejection of the orders dated 14.11.2016 and 18.1.2017, issued therein.

6. Thus, the writ petitioner is of the habit of filing chain of writ petitions, challenging all the orders issued by the respondents on initiation of the single disciplinary proceedings, one after another.

7. In this regard, the learned counsel appearing for the respondents contended that the order of suspension was

challenged, the charge memo was challenged and the appointment of Enquiry Officer is also challenged.

8. This Court is of a doubt regarding the intention of the writ petitioner to prolong the disciplinary proceedings one way or the other. Such an attitude of the writ petitioner is to be deprecated and once the charge memo is issued against a public servant, it is his duty to prove his innocence before the Enquiry Officer. By challenging and by filing series of writ petitions, the writ petitioner cannot be allowed to escape from the clutches of the disciplinary proceedings.

9. In this view of the matter and in view of the earlier directions issued by this Court on 3.10.2016 in WP Nos.36291 and 38536 of 2015, no further adjudication is required in this writ petition. The writ petitioner is directed to cooperate with the Enquiry Officer for conducting and completing the enquiry. The respondents are directed to provide all reasonable opportunities to the writ petitioner under the Rules.

10. With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam,
Chennai-600 034.

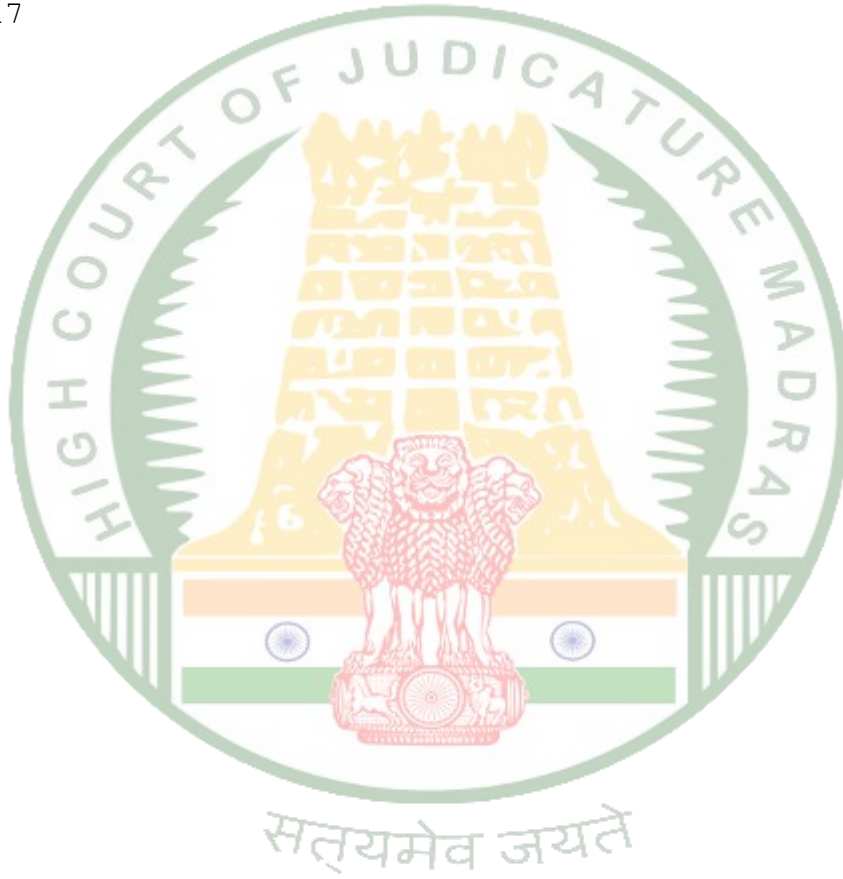
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam,
Chennai-600 034.

3. Thiru.N.Visakamurthy,
Assistant Commissioner/Enquiry Officer,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam,
Chennai - 600 034

+1cc to Mr.G.Sankaran, Advocate, S.R.No.50427

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AK (CO)
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