

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2017

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P. No. 8671 of 2013 and MP.2 of 2013

P.Muthaiyan

..... Petitioner

Vs.

The Tahsildar

Taluk Office, Oulgaret,
Pondicherry - 605 009

..... Respondent

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records in Letter No.71/TOO/LG/FS/2012/171 dated 15.02.2013, on the file of the 2nd respondent and quash the same.

For Petitioner : M/S.Sri Priya
for M/s.V.Raghavachari

O R D E R

The notice issued by the respondent vide proceedings dated 15.02.2013 is under challenge in this writ petition.

2. On perusal of the notice it is stated that a complaint dated 08.01.2013 was submitted and based on that, the respondent requested the writ petitioner to appear in person or through the authorised agent on 19.02.2013 at 4.00pm for enquiry. This notice of enquiry is under challenge in this writ petition.

3. The learned counsel appearing for the petitioner states that earlier, an enquiry was conducted and for the same complaint, the present notice was issued. Once again, this cannot be a reason for quashing the enquiry proceedings. The competent authorities are empowered under the statutes to call any person for enquiry. If there is any complaint against the said person, the power conferred to the competent authorities under the statute, cannot be taken away and further complaint has to be dealt in accordance with law by conducting proper enquiry. A very notice of enquiry cannot constitute a ground for the writ petitioner to move the writ petition under Article 226 of the Constitution of India. It is left open to the writ petitioner to

appear before the competent authorities and submit his explanation / objection / documents and defend his case or explain his position in accordance with law.

4. A notice of enquiry can be challenged only on limited ground and a writ can be entertained only on exceptional circumstances and not in a routine manner. Notice of enquiry / show cause notice can be entertained by way of writ petition, if the same is issued by an incompetent authority, having no jurisdiction or allegation of malafide are raised or if the charge memo is in violation of the statutory rules. Even in case of raising allegation of malafides authority against whom such an allegation is raised has to be impleaded as a party in the writ proceedings in his personal capacity. In the absence of any one of these grounds, no writ can be issued against the notice of enquiry / show cause notice. In the case on hand, the writ petitioner made attempts to establish the merits of his case and this Court cannot entertain or adjudicate the merits and demerits of the case in relation of the enquiry and it is for the competent authority to consider the same and take decision.

5. Thus, no further adjudication is required on merits and on the grounds raised in this writ petition.

6. Accordingly, the writ petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

sk

To

The Tahsildar
Taluk Office, Oulgaret,
Pondicherry - 605 009

+1 CC to M/S.V.Raghavachari, Advocate Sr.73169

CO-NRJK

ths : 21.11.2017

W.P.No. 8671 of 2013