

W.M.P.No.35671 of 2016
in W.P.No.1262 of 2014

M.SUNDAR. J.

The writ petitioner is a head constable with the police department now under suspension. The main writ petition has been filed assailing a charge memo dated 09.01.2013 bearing Ref.No.F1/PR/No.01/2013. The writ petition was filed on 03.01.2014 and it was admitted on 21.01.2014. Thereafter, now the present implead petition has been filed on 17.11.2016 with a prayer to implead the Director General of Police, Chennai [hereinafter 'DGP' for brevity] and one Sadhak E.Parveen [Inspector of Police, Vigilance & Anti Corruption], the investigating officer.

2.The writ petitioner therefore wanted to implead the investigating officer, who is the complainant with regard to a complaint lodged before the fourth respondent Inspector of Police, Kottikodu Police Station, Kanyakumari District.

3. The implead petition has been filed on the sole ground that the writ petitioner, filed an application under the Right to Information Act ['RTI' for brevity] and the office of the DGP in response to the application under the RTI replied that there is no loss or theft and there is no case of missing of 410 Musket Bullets.

4. Mr.M.K.Subramanian, learned Government Pleader opposed the implead application and he brings to my notice a mahazar dated 11.01.2012 wherein the seizure of the ammunition concerned is reflected. It is also brought to the notice of the Court that this mahazar has been filed in the appropriate Court namely, Chief Judicial Magistrate Court on 18.01.2012 itself. It was further submitted by the learned Government Pleader that the writ petitioner herein is also involved in another offence and would place the relevant communication from the District Forest Officer to the concerned Superintendent of Police.

5. Be that as it may, it is seen that the implead petition has been filed on the sole ground that in response to the RTI application, the office of the Director General of Police has stated that there is no loss or theft and there is no case of missing of 410 Musket Bullets. Though not pleaded, at the Bar, during the submissions learned counsel for the petitioner who is also the petitioner in the implead petition would submit that the writ petitioner holds a valid arms licence and that he is entitled to possess the weapon and ammunition.

6. If that be the case, it may be appropriate to notice that the reply of the office of the DGP that there is no loss or theft is in

order. However, I am not going into that issue. Considering the basis on which the implead petition has been filed and the submissions made in response to the same, I am convinced that there is no need or necessity to implead the DGP and Sadhak E.Parveen [Inspector of Police, Vigilance & Anti Corruption].

7. In other words, in the considered opinion of this Court the proposed parties sought to be impleaded as 5th and 6th respondents in the main writ petition are neither necessary parties nor proper parties. Nothing has been shown to convince this Court that they are either necessary parties or proper parties.

8. Implead application fails and is dismissed. It is made clear that all submissions that are being made by the learned counsel for the writ petitioner are left open for him to agitate in the main writ petition as well as before the appropriate criminal court. Criminal Court below shall decide the case influenced by any observations being made in this order as they have been made for the limited purpose of the disposal of the implead petition. It is noticed that the pleadings are complete and the main matter is ready for final hearing. Learned counsel for the writ petitioner Dr.A.Sampathkumar and learned Government Pleader present

M.SUNDAR, J.,

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before the Court today agree to argue the main writ petition on 30.01.2017.

9. Post the main writ petition for final disposal before the roaster Judge. It may be construed that an early date has been fixed for final hearing of the main writ petition by consent of both parties though there is no separate petition for fixing an early date.

06.01.2017

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