

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.04.2018

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10918 of 2018

and

W.M.P.No.12845 of 2018

R.Baskar

..Petitioner

Vs

1.The Chairman,
Chennai Port Trust
Kamaraj Salai,
Chennai - 600 001.

2.Cyril.C.George,
The Deputy Chairman,
Chennai Port Trust,
Kamaraj Salai,
Chennai - 600 001.

3.C.S.Vemana
FA & CAO
(The Financial Adviser & Chief
Accounts Officer),
Kamaraj Salai,
Chennai - 600 001.

4.Union of India,
Ministry of Shipping & Transport,
By its Secretary,
Parivahan Bhavan,
1, Parliament Street,
New Delhi - 110 001.

..Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent in proceedings No.Estt R(2)/Dis.11509/2017/F dated 30.01.2018 and quash the same as well as the consequent enquiry and direct the respondents, the Port Trust administration to provide the petitioner all protection from all forms of harassment as a whistleblower and direct the respondents to restore the petitioner to full service with full back wages and all attendant benefits and consequent reliefs.

For Petitioner : M/s.Vasudevan

O R D E R

The charge memo issued against the writ petitioner by the 3rd respondent in proceedings dated 30.01.2018 is under challenge in this writ petition.

2.The writ petitioner is now working as an Assistant Superintendent in the Finance Department of the Chennai Port Trust. The writ petitioner states that in respect of certain corrupt activities, he made a complaint to the Central Vigilance Commission and accordingly, actions are now initiated against the officials concerned. In view of the fact that he blew the whistle in respect of certain corrupt activities, the 3rd respondent has taken some personal vengeance against the writ petitioner and framed the charges.

3.The learned counsel appearing on behalf of the writ petitioner states that the impugned charge memo has been issued on mala fide grounds and therefore, liable to be set aside. The allegations set out against the writ petitioner are flimsy and therefore, the same is liable to be scrapped.

4.In order to establish the personal motives, the respondents 2 and 3 are impleaded as respondents in their personal capacity. The writ petitioner has set out certain allegations against the 2nd and 3rd respondents and also against these officials, complaints are also pending before the Central Vigilance Commission. It is needless to state that in respect of the complaint filed by the writ petitioner, actions are to be taken in accordance with law.

5.The learned counsel for the petitioner states that the allegations are relating to the corrupt activities and therefore, the intervention of the Central Vigilance Commission is certainly imminent and warranted. As rightly said, the complaint filed by the writ petitioner is to be dealt with in accordance with law by the Central Vigilance Commission and undoubtedly, all the officials concerned are to be prosecuted, if the offence relating to corruption is established. However, the present writ petition has been filed, challenging the charge memo. The apprehension raised by the writ petitioner in respect of the 2nd and 3rd respondents are also to be clarified in this writ petition.

6.Thus, this Court is of an opinion that in the event of proceeding with the enquiry pursuant to the impugned charge memo by the disciplinary authority, then the same is to be continued

by any other independent officer other than the 2nd and 3rd respondents.

7.No writ petition can be entertained against the charge memo. A writ against a charge memo, of course, shall be effected, if an allegation of mala fides are raised. However, in the present writ petition, the allegation of mala fides are raised, but, the writ petition is not taken up at the time of admission stage without providing an opportunity to the respondents to revert the contentions raised in this writ petition.

8.This Court is of an opinion that it is suffice, if a direction is issued to proceed with the enquiry and conclude the disciplinary proceedings by appointing an independent officer other than the 2nd and 3rd respondents.

9.It is further contended that the writ petitioner has already submitted his explanations. Thus, the authorities competent are at liberty to proceed with the enquiry proceedings, conclude the same and pass final orders in the disciplinary proceedings as early as possible without causing any undue delay. It is made clear that the writ petitioner also would cooperate for the conclusion of the disciplinary proceedings in all respects.

10.Accordingly, this writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

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To

1.The Chairman,
Chennai Port Trust
Kamaraj Salai,
Chennai - 600 001.

2. The Deputy Chairman,
Chennai Port Trust,
Kamaraj Salai,
Chennai - 600 001.

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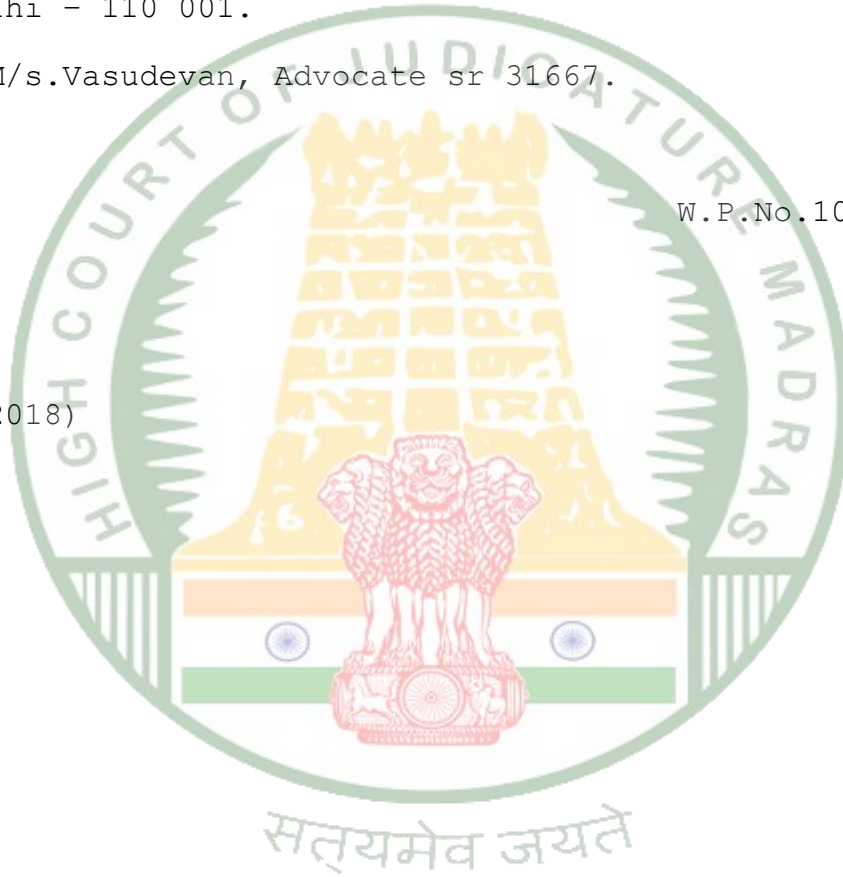
3. FA & CAO,
(The Financial Adviser & Chief
Accounts Officer),
Kamaraj Salai,
Chennai - 600 001.

4.The Secretary,
Union of India,
Ministry of Shipping & Transport,
Parivahan Bhavan,
1, Parliament Street,
New Delhi - 110 001.

+1 CC to M/s.Vasudevan, Advocate sr 31667.

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NRL (CO)
SP (07/05/2018)



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