



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No.764 of 2018
and
W.M.P. (MD) .No.823 of 2018

T.Sankar

... Petitioner

Vs.

The Superintendent of Police,
Thoothukudi District.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the proceedings of the respondent in P.R.No.102/2017 dated 18.11.2017 under Rule 3(b) of the Tamil Nadu of Police Subordinates Service (Disciplinary and Appeals) Rules, 1955 and to quash the same.

For Petitioner : Mrs.P.Jessi Jeeva Priya
For Respondent : Mr.M.Jeyakumar
Additional Government Pleader

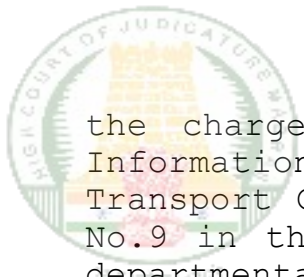
ORDER

Heard Mrs.P.Jessi Jeeva Priya, learned Counsel, appearing for the petitioner and Mr.M.Jeyakumar, learned Additional Government Pleader, who takes notice for the respondent.

2.By consent of both the parties, the main writ petition is taken up for final disposal at the stage of admission itself.

3.The petitioner is working as Special Sub Inspector of Police in Thoothukudi District. He was implicated in Crime No.16 of 2017, Punishable under Sections 420, 465, 467, 468, 471 and 472 of IPC, dated 22.03.2017, on the file of the DCB Police Station, Thoothukudi District.

4.The core allegation is that the petitioner issued fake "No Objections Certificates". On the same cause of action, the petitioner has already been issued with a charge memo dated 18.11.2017 under Rule 3(b) of the Tamil Nadu Police Subordinates Service (Disciplinary and Appeal) Rules, 1955. Articles 1 and 2 of



the charge memo relate to the same subject matter. The First Information Report was lodged by one K.Anand, who is the Regional Transport Officer, Thoothukudi District. He is figuring as witness No.9 in the charge memo. Since the criminal case as well as the departmental proceedings are founded on the same set of facts and common evidence is involved, it would be in the fitness of things to direct the respondent to defer holding of the departmental enquiry. If the petitioner is directed to take part in the departmental enquiry prior to the commencement of the criminal trial, the defence of the petitioner in the criminal case would be gravely prejudiced. At the same time, the departmental action cannot be kept indefinitely pending. It is submitted that the final report is yet to be filed in the criminal case. Therefore, a balance will have to be struck.

5.In these circumstances, following the decision of the Hon'ble Supreme Court reported in (2016) 9 SCC 491 (*State Bank of India Vs. Neelam Nag*), this Court directs the respondent to keep the departmental proceedings in abeyance for a period of one year from today. The Investigating Officer in Crime No.16 of 2017, on the file of the DCB Police Station, Thoothukudi District, is directed to file the final report within a period of three months from the date of receipt of a copy of this order. The jurisdictional Trial Court shall endeavor to conclude the proceedings as expeditiously as possible. If the criminal case does not get concluded within a period of one year from today, the order staying the departmental action will stand vacated and the departmental proceedings shall resume thereafter.

6.The Writ Petition stands allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Superintendent of Police,
Thoothukudi District.
- 2.The Officer-in-Charge,
DCB Police Station, Thoothukudi

+One cc to The Special Government Pleader, SR.No.42547

+One cc to M/s.Jessi Jeevapriya, Advocate, SR.No.41982

tsg

RL/5C/2P/KKR/SAR2/9/3/2018

W.P. (MD) No.764 of 2018