



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.(MD) No.21093 of 2018

and

W.M.P.(MD) Nos.18889 & 18890 of 2018

Abdul Raguman

... Petitioner

vs.

The Enquiry Officer / Additional
Superintendent of Police
Headquarters, Karur District, Karur

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records of the impugned Radio message No.Nil dated Nil issued by the respondent through email and quash the same as illegal in respect of the production of witnesses LW1, LW3, LW7, LW9, LW11, LW14, LW15 and LW17 in the list of witnesses enclosed in Annexure -4 for oral enquiry on 11.10.2018 and forbear the respondent from scrapping their evidence already given on 19.09.2018.

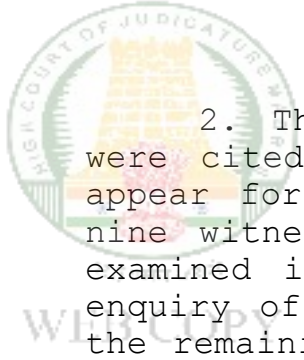
For Petitioner : Mr.C.Arul Vadivel Alies Sekar

For Respondent : Mr.S.Dhayalan

Government Advocate (Civil Side)

ORDER

The case of the petitioner is that he is working as Inspector of Police in Ganesh Nagar Police Station, Pudukottai District. While he was serving as Sub-Inspector of Police in Kottaipattinam Police Station, on 14.12.2000, a criminal case was registered against him, under the provisions of the Prevention of Corruption Act, 1988. After a full-fledged trial, on 31.12.2008, the petitioner was acquitted by the learned Chief Judicial Magistrate, Pudukottai. Thereafter, on 27.05.2009, a charge memo was issued against the petitioner for the same set of allegations. The petitioner challenged the charge memo, dated 27.05.2009, before this Court by filing a writ petition in W.P.(MD) No.6046 of 2010 and the same was dismissed on 23.01.2018. Challenging the dismissal of the writ petition, the petitioner preferred a writ appeal in W.A.(MD) No.746 of 2018 and the same was also dismissed on 20.08.2018 with a direction to the official concerned to conclude the departmental enquiry proceedings within a period of six months. Subsequently, in pursuance of the directions issued by the Honourable Division Bench of this Court in W.A.(MD) No.746 of 2018, an Enquiry Officer was appointed.



2. The Enquiry Officer issued summons to 21 witnesses, who were cited as witnesses in the charge memo dated 27.05.2009, to appear for oral examination on 19.09.2018. Out of 21 witnesses, nine witnesses appeared before the Enquiry Officer and they were examined in chief and cross on the same day. On conclusion of enquiry of those nine witnesses, the petitioner was informed that the remaining witnesses would be summoned on the other day and the date of hearing would be intimated in due course.

3. While so, by a radio message, the Enquiry Officer directed the Deputy Superintendent of Police, Pudukottai Town Sub Division, Pudukottai District and the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Alangulam, Pudukottai, to produce all the 21 witnesses for enquiry on 11.10.2018, including the nine witnesses, who were already examined and the petitioner was also informed that the evidence already tendered by the nine witnesses would be scraped and eschewed. The so-called radio message conveyed to the Deputy Superintendent of Police, Pudukottai Town Sub-Division, Pudukottai District and the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Alangulam, Pudukottai, is the subject matter in this writ petition.

4. The learned counsel appearing for the petitioner would submit that summoning of nine witnesses once again by the Enquiry Officer is contrary to the procedure contemplated in the Disciplinary Rules and therefore, the action in that regard by the Enquiry Officer is liable to be interfered with. The learned counsel would further submit that the nine witnesses, who were turned hostile, had been re-summoned by the Enquiry Officer in order to elicit fresh evidentiary material from them, which would only show that the Enquiry Officer is predetermined to take a particular course of action in the departmental enquiry proceedings. According to the learned counsel appearing for the petitioner, such a procedure adopted by the Enquiry Officer cannot be countenanced either in law or on facts and therefore, he would pray for interference of this Court in the departmental enquiry proceedings.

5. Heard Mr.S.Dhayalan, learned Government Advocate (Civil Side), who takes notice for the respondent.

6. This Court is unable to appreciate as to how the petitioner can be allowed to approach this Court during the progress of departmental enquiry proceedings. In case the petitioner has any grievance in regard to the conduct of the departmental enquiry proceedings, it is certainly open to him to assail the same when final orders are passed by the Disciplinary Authority. However, it is not open to the petitioner to approach this Court at every stage of the enquiry proceedings and seek intervention of this Court. Such a conduct of the petitioner cannot be allowed to entertain and it will only affect the departmental enquiry proceedings, which are likely to be concluded in pursuance of the directions issued by the honourable Division Bench of this Court at the instance of the petitioner himself.



7. When the departmental enquiry proceedings are being conducted in pursuance of the directions issued by the Honourable Division Bench, this Court cannot interfere with the departmental enquiry proceedings and stall the same. In case the Enquiry Officer is not following the proper procedure as contemplated in the Disciplinary Rules, it is always open to the petitioner to take advantage of such procedure being adopted by the Enquiry Officer when final orders are passed in the departmental enquiry proceedings. However, it is not open to the petitioner to approach this Court in the interregnum and seek intervention of this Court.

8. For the above said reasons, this Court is of the considered view that the writ petition is completely misconceived and the same cannot be entertained. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-IV)

To:

The Enquiry Officer /
Additional Superintendent of Police,
Headquarters, Karur District, Karur.

+1CC to Mr.C.Arul Vadivel @ Sekar, Advocate, SR.No.89516
+1CC to the Special Government Pleader SR.No.90193

W.P. (MD) No.21093 of 2018
and

W.M.P. (MD) Nos.18889 & 18890 of 2018
09.10.2018

KRK

ES/RP/SAR 4/09.11.2018/3P/4C