



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

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W.P (MD) No.4642 of 2011

A.Balasingh Daniel

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary,
Public Department,
Secretariat, Chennai - 600 009.
2. The Additional Director General of Police,
and Inspector General of Police,
Chennai - 600 008.
3. The Superintendent of Prisons,
Central Jail, Trichy - 20.
4. The District Collector,
Trichy District, Trichy.
5. The Revenue Divisional Officer,
Trichy Division, Trichy.
6. The Inspector of Police,
CB CID, Trichy,
7. The National Human Rights Commission,
represented by its Chairman,
Faridkot House,
Copernicus Marg,
New Delhi - 110 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the G.O.Ms.No.206 Public (L & O-A) Department dated 02-03-2010 issued by the 1st Respondent as well as consequent show cause notice issued by the 3rd Respondent in his memo No.23349/Po.2/2009 dated 17-05-2010, 08-07-2010 and 14-02-2011 quash the same.

For Petitioner

: Mr.T.Sakthi Kumaran

For Respondents 1 to 6

: Mr.M.Muthu,
Additional Government Pleader<https://hcservices.ecourts.gov.in/hcservices/>

: Mr.C.Nandagopal

**ORDER**

The Show cause notices issued to the writ petitioner by the third respondent dated 17.05.2010, 08.07.2010 and 14.02.2011 are under challenge in this writ petition.

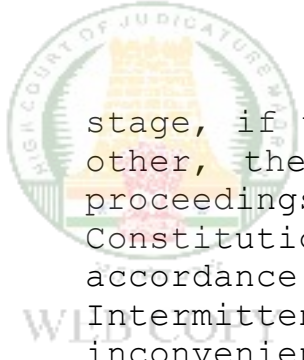
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2.The writ petitioner was holding the post of Chief Head Warder, in Sub Jail, Tiruchendur, Tuticorin District and allowed to be retired from service on attaining the age of superannuation. On account of certain allegations, the suicidal death in the jail premises, RDO enquiry was conducted and subsequently, the respondents issued show cause notices to the writ petitioner stating that why action should not be taken against him for the recovery of compensation amount granted to the victim and the impugned orders state the writ petitioner to submit his explanation, failing which further action will be taken, based on the available records. Instead of submitting his explanation/objections on the show cause notices, the writ petitioner has chosen to prefer the present writ petition on the ground that certain documents sought for by the writ petitioner were not communicated to him.

3.At the outset, the learned counsel for the petitioner states that the important documents sought for by the writ petitioner were not furnished to him, that is the reason why the writ petitioner is constrained to move the present writ petition.

4.No writ can be entertained against the show cause notice in a routine manner. Judicial review in respect of show cause notice is certainly limited. A writ against a show cause notice can only be entertained, if the same was issued by an incompetent authority, having no jurisdiction or if allegation on *mala fides* are raised or if the same is in violation of the statutory rules in force. Even in case, raising allegations on *mala fides*, the authority against whom such allegation is raised to be impleaded as party respondent in his personal capacity. In the absence of any one of these legal grounds, no writ petition can be entertained against a show cause notice.

5.The grievance in relation to the non-production of certain documents to the writ petitioner has to be raised at the appropriate stage. There is likelihood that such issues are raised in the writ petition in order to prolong and protract the final orders to be passed in the issue. In other words, the writ petitions are moved at the show cause notice stage to prolong the issue with an idea of not submitting the explanations and filing such writ petition during the intermittent period cannot be encouraged by this Court. Certain grounds such as procedural irregularities, if any, has to be raised only by availing the opportunity during the course of enquiry . At each and every



stage, if the writ petitions are entertained, on one ground or the other, then no authority will be in a position to conclude the proceedings initiated. The institutions established under the Constitution have to be allowed to exercise their power in accordance with an idea not submitting the regulations. Intermittent intervention will certainly cause certain inconveniences to the competent authorities to proceed with the files and conclude the same in accordance with the rules.

6. Thus, the High Courts are to be cautious while entertaining the writ petition against the show cause notices, which will not constitute any case of action *per se*. Issuance of show cause notices cannot be construed as cause of action, so as to entertain the writ petition under Article 226 of the Constitution of India. Undoubtedly if there is any injustice or abuse of power or colourable exercise of powers, certainly High Courts would interfere under Article 226 of the Constitution of India. However, such exercise has to be done sparingly with more caution.

7. In the present case on hand, the writ petitioner may have got certain grievances in respect of non production of certain records. It is left open to the writ petitioner to present all his grounds and grievances before the appropriate authority by way of explanations/ objections and the appropriate authority is also bound to consider all the grounds raised by the writ petitioner, take decision and pass final orders on merits and in accordance with law. However, the present writ petition against the show cause notice cannot be entertained in view of the fact that it will not provide any cause of action and the competent authorities have not taken any final decision against the writ petitioner and hence, he cannot be said to be aggrieved against the show cause notice. In fact it is an opportunity to provide his explanation and his case to the respondents. Thus, the writ petitioner is at liberty to submit his explanations/objections to the competent authorities and the competent authorities on receipt of the same shall take decision considering the materials available and pass orders on merits and in accordance with law.

8. The learned counsel for the writ petitioner made a reasonable submission that the writ petitioner had already attained the age of superannuation and therefore speedy disposal of the proceedings are highly just and necessary. In view of the submissions made, this Court is inclined to direct the respondents to expedite the proceedings and in this regard the writ petitioner is directed to submit his explanation/objections within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents are directed to consider the materials available on record and pass final orders on merits and in accordance with law within a period of twelve weeks therefrom.



9. Accordingly, this writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

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/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Public Department,
Secretariat, Chennai - 600 009.
2. The Additional Director General of Police,
and Inspector General of Police,
Chennai - 600 008.
3. The Superintendent of Prisons,
Central Jail, Trichy - 20.
4. The District Collector,
Trichy District, Trichy.
5. The Revenue Divisional Officer,
Trichy Division, Trichy.
6. The Inspector of Police,
CB CID, Trichy,
7. The Chairman,
The National Human Rights Commission,
Faridkot House, Copernicus Marg,
New Delhi - 110 001.

+1cc to Mr.A.Thirumurthy, Advocate Sr.No.44128
+1cc to Spl.Government Pleader Sr.No.43980

DSK

VB/JC/SAR3/15.02.2018/4P/10C

ORDER MADE IN
W.P (MD) No. 4642 of 2011
23.01.2018