

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.41699 of 2018

ORDER:

Petitioner has assailed in this Writ Petition Memorandum No.11369/Vig.II(1)/2015-2 dt.22-05-2018 of the 2nd respondent communicated through 3rd respondent's proceedings dt.29-05-2018.

2. It is the contention of the learned counsel for petitioner that the 2nd respondent has no jurisdiction to differ with the findings of the Enquiry Officer and that it is only the 3rd respondent who can do so.

3. Learned Government Pleader for Services-II appearing for respondents states that under Rule 12 of the A.P.Civil Services (Classification, Control and Appeal) Rules, 1991, the State Government has got power to impose any penalty and notwithstanding anything in Rule 11, the Government may impose any of the penalties specified in Rule 9 on members of the State Services. He also states that this is a Vigilance case relating to the petitioner and therefore under Rule 12, the 2nd respondent is empowered to differ from the findings of the Enquiry Officer.

4. Though learned counsel for petitioner did not dispute that under Rule 12, the 2nd respondent can exercise powers of the disciplinary authority, he contends that in the instant case the 2nd respondent ought not to have intervened.

5. I see no merit in the said contention in view of Rule 12.

6. A further contention was also raised by the learned counsel for petitioner that in the proceedings dt.22-05-2018, there is allegedly pre-determination.

7. I am of the opinion that the said order merely states that the Government had decided to disagree with the findings of the Enquiry authority and disagreement factors are mentioned in the order dt.22-05-2018 inviting explanation from the petitioner. This cannot be misconstrued by the petitioner as a pre-determination by 2nd respondent.

8. In this view of the matter, I do not see any merit in the Writ Petition. It is accordingly dismissed at the stage of admission. No costs.

9. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 20-11-2018
Vsv