

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :02.07.2019
CORAM
THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU
W.P. No. 11140 of 2018
and
W.M.P. Nos. 13062 and 13063 of 2018

Sanjay Bandari

... Petitioner

-vs-

1. Disciplinary Directorate,
The Institute of Chartered Accountants of India,
ICAI Bhawan, PO Box No. 7100,
Indraprastha Marg,
New Delhi - 110 002.

2. S. Vellaipandi ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent and quash impugned order in PR-188/16-DD/215/16 dated 26.11.2017 as being arbitrary, illegal and unconstitutional.

For Petitioner : Mr. Kumarpal R Chopra

For Respondents: No appearance

O R D E R

On a perusal of the order No. PR-188/16-DD/215/16 dated 26.11.2017 issued by the First Respondent, which is impugned in the Writ Petition, it is noticed that it is merely a notice requiring the Petitioner to appear for enquiry in disciplinary proceedings under the Chartered Accountants Act, 1949. It is needless to point out here that the Petitioner cannot claim to be prejudiced by the issuance of such notice and he would have to attend the enquiry by placing his explanation with supporting materials. It is only in the event of an order entailing advertising civil consequences being passed against the Petitioner as an ultimate outcome of the disciplinary proceedings that he could be aggrieved so as to challenge the same in appropriate legal proceedings in the manner recognized by law. This view taken is fortified by the decisions of the Hon'ble Supreme Court of India in Special Director -vs- Mohammed Ghulam Ghouse [(2004) 3 SCC 440], Secretary, Ministry of Defence -vs- Prabhash Chandra Miradha [AIR 2012 SC 2250] and Life Insurance Corporation

of India -vs- A. Masilamani [(2013) 6 SCC 530] holding that the Court has to be loathe to entertain a challenge to a show cause notice.

2. As, there is no justification at this pre-mature stage for the Petitioner to invoke the discretionary powers of this Court under Article 226 of the Constitution of India, the Writ Petition is dismissed. However, it is made clear that no view has been expressed by this Court on the correctness of the factual contentions of the parties, which shall be decided by the Disciplinary Authority, uninhibited and uninfluenced by the refusal of this Court to entertain the Writ Petition. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vji

To

The Director,
Disciplinary Directorate,
The Institute of Chartered Accountants of India,
ICAI Bhawan, PO Box No. 7100,
Indraprastha Marg,
New Delhi - 110 002.

+lcc to Mr.Kumarpal R Chopra , Advocate SR.No. 55998

W.P. No. 11140 of 2018

A.SK(31/07/2019)

सत्यमेव जयते

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