

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11-04-2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.8195 of 2019

And

W.M.P.No.8756 of 2019

M.Siva

.. Petitioner

Vs.

1. The Secretary to Government,
Health and Family Welfare Department,
Fort St. George,
Chennai-600 009.
2. The Director,
Directorate of Medical Service,
D.M.S. Compound,
Teynampet, Chennai-600 018.
3. The Director,
Public Health and Preventive Medicine,
D.M.S. Compound,
Teynampet, Chennai-600 018.
4. The Deputy Director,
Health and Family Welfare Department,
Kachirayapalayam Road,
Kallakurichi, Kallakurichi Taluk-606 202,
Villupuram District.

5. Mrs.Mogala

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the third respondent to initiate appropriate disciplinary proceedings against the fifth respondent, presently working as Community Health Nurse at Thirunavalur, Kallakurichi in Villupuram District on the basis of the representation dated 10.8.2018 on merits and as per Rules and Law.

For Petitioner : Mr.L.Chandrakumar for
Ms.N.R.Jasmine Padma.

For Respondents-1to4 : Mr.A.N.Thambidurai,
Special Government Pleader.

For Respondent-5 : Mr.N.L.Rajah,
Senior Counsel for
Mr.P.Munusami.

O R D E R

The relief sought for in the present writ petition is for a direction to direct the third respondent to initiate appropriate disciplinary proceedings against the fifth respondent, presently working as Community Health Nurse at Thirunavalur, Kallakurichi in Villupuram District, on the basis of the representation dated 10.8.2018 on merits and as per Rules and Law.

2. The learned counsel for the writ petitioner made a submission that the fifth respondent accumulated wealth over and above her income and there are several civil disputes, which are also pending against the fifth respondent, wherein the writ petitioner is also a party.

3. At the outset, it is contended that the fifth respondent accumulated disproportionate wealth and the complaint in this regard submitted by the writ petitioner has not been taken up for further enquiry as per law. Thus, the writ petitioner is constrained to move the present writ petition.

4. The learned Senior Counsel, appearing on behalf of the fifth respondent, disputed the contentions raised on behalf of the writ petitioner, by stating that the writ petition itself is not maintainable, in view of the decision of the Hon'ble Supreme Court of India in Rajnit Prasad vs. Union of India and others [(2000) 9 SCC 313], the relevant paragraph-9 of the said judgment, reads as under:-

"9. But a mere busybody who has no interest cannot invoke the jurisdiction of the court. In respect of departmental proceedings which are initiated or sought to be initiated by the Government against its employees, a person who is not even remotely connected with those proceedings cannot challenge any aspect of the departmental proceedings or action by filing a writ petition in the High Court or in this Court. Disciplinary action against an employee is taken by the

Government for various reasons principally for "misconduct" on the part of the employee. This action is taken after a "domestic" inquiry in which the employee is provided an opportunity of hearing as required by the constitutional mandate. It is essentially a matter between the employer and the employee, and a stranger, much less a practising advocate, cannot be said to have any interest in those proceedings. Public interest of general importance is not involved in disciplinary proceedings. In fact, if such petitions are entertained at the instance of persons who are not connected with those proceedings, it would amount to an abuse of the process of court."

5. Relying on the abovesaid judgment of the Hon'ble Supreme Court of India, the learned Senior Counsel appearing on behalf of the fifth respondent contended that various civil disputes are pending between the writ petitioner and the fifth respondent and the present writ petition is filed on account of certain personal vengeance and therefore, the same is liable to be rejected.

6. The learned Special Government Pleader, appearing on behalf of the respondents 1 to 4, made a submission that based on the complaint given by the writ petitioner on 7.8.2018, which was received by the Department of Vigilance and Anti-Corruption, an enquiry was conducted and thereafter the complaint was forwarded to the Head of the Department for further enquiry.

7. The enquiry reveals that the property now said to be possessed by the writ petitioner in the present writ petition had acquired by the writ petitioner even prior to her appointment in the Government Department. However, the fact remains that the fifth respondent had already attained the age of superannuation and retired from service on 31.3.2019.

8. This being the factum of the case, the relief, as such, sought for by the writ petitioner in the present writ petition deserves no merit consideration.

9. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Secretary to Government,
Health and Family Welfare Department,
Fort St. George, Chennai-600 009.
2. The Director,
Directorate of Medical Service,
D.M.S. Compound, Teynampet,
Chennai-600 018.
3. The Director,
Public Health and Preventive Medicine,
D.M.S. Compound, Teynampet,
Chennai-600 018.
4. The Deputy Director,
Health and Family Welfare Department,
Kachirayapalayam Road, Kallakurichi,
Kallakurichi Taluk-606 202,
Villupuram District.

+2cc to Mr.P.Munusami, Advocate, S.R.No.35983
+1cc to Ms.N.R.Jasmine Padma, Advocate, S.R.No.36534
+1cc to the Government Pleader, S.R.No.36354

WP.No.8195 of 2019

VSNIIC(CO)
CS/15/05/2019

WEB COPY