

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2019

C O R A M

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

Writ Petition No. 12043 of 2019
and
W.M.P. No. 12315 of 2019

V.Sivasankaran

... Petitioner

Vs.

- 1.The Assistant General Manager
Legal/Inquiry Officer, SIPCOT
No.19A, Rukumani Lakshmipathi Road
Egmore, Chennai - 600 008.
 - 2.The Principal Secretary/ Chairman
Managing Director, SIPCOT
No.19A, Rukumani Lakshmipathi Road
Egmore, Chennai - 600 008.
 - 3.Madhumathi Kumar
General Manager Rtr.
W/o.Jai Kumar, No.11,
Park Street, Kilpauk
Chennai - 600 010.
 - 4.The Director
Directorate of Vigilance and Anti-Corruption
No.293, MKN Road, Alandur
Chennai - 600 016.
- ... Respondents

PRAYER Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for records pertaining to the order of the 1st respondent relating to the impugned order legal Ref. Enquiry/2019 dated 18.03.2019 and consequential notice Ref. AGM(L) /Inquiry/2019 dated 01.04.2019 and quash the same and direct the respondent to grant him all consequential service and monetary benefits from 2009.

For Petitioner : M/s.S.Aparna

For Respondents : Mr.A.N.Thambidurai [For R4]
Special Government Pleader

O R D E R

The order of rejection not permitting the petitioner to engage an Advocate to defend the case of the petitioner in the departmental disciplinary proceedings is under challenge in this writ petition.

2.The learned counsel for the writ petitioner states that the writ petitioner was acquitted from the criminal charges and now facing the departmental disciplinary proceedings. It is contended that the departmental disciplinary proceedings are in progress and the writ petitioner is a differently able persons and need for an assistance. In this regard, the writ petitioner submitted an application seeking permission to engage a Lawyer to assist his case before the Enquiry Officer. The said request of the writ petitioner is negatived on the ground that lawyers cannot be permitted in the departmental disciplinary proceedings.

3.The learned counsel for the writ petitioner states that the writ petitioner is a differently able person and therefore, he may be provided with an assistance of Lawyer to defend his case before the Enquiry Officer.

4.The legal principles settled in this regard is that if the Enquiry Officer is a retired Judicial Officer or a Lawyer having legal background then alone the delinquent employees are entitled to seek assistance of a Lawyer. If the Enquiry Officer is not a legally trained person, then the employees are entitled to have an assistance of retired Officer or any of his colleagues. In other words, the writ petitioner is entitled to seek the assistance of one of his colleagues or a retired Officer from any department. If such a request is made by the writ petitioner, the same is to be considered by the competent disciplinary authorities. However, employees have got a right to seek an assistance of retired employee.

5.A Lawyer can be permitted only if the Enquiry Officer is a legally trained persons. Thus, these facts shall be verified by the respondents and if the writ petitioner seeks any assistance the same shall be provided by considering the above legal principles settled by the Courts. Thus, the respondents are directed to consider the facts and circumstances and if the Enquiry Officer is a legally trained person/Judicial Officer/Lawyer then the writ petitioner is entitled to have the assistance of a Lawyer and not otherwise.

6.Thus, the writ petitioner is directed to submit a fresh representation seeking for assistance of one of his colleagues or a retired employee of any department or if Enquiry Officer is a Law graduate, then for assistance of a Lawyer. In the event of receiving any such representation, the same shall be considered as afresh, the authority competent was directed to take a decision and proceed with the Enquiry as expeditiously as possible, in order to conclude the departmental disciplinary proceedings.

7.With these observations, this writ petition stands disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-

ASSISTANT REGISTRAR

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

- 1.The Assistant General Manager
Legal/Inquiry Officer, SIPCOT
No.19A, Rukumani Lakshmi pathi Road
Egmore, Chennai - 600 008.
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- 4.The Director
Directorate of Vigilance and Anti-Corruption
No.293, MKN Road, Alandur
Chennai - 600 016.

+1 CC to M/s.S.Aparna Advocate SR.NO.40564
+1 CC to GOVERNMENT PLEADER SR.NO.42003

W.P. No. 12043 of 2019

CO(VGI)
VC (03/06/2019)