

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

WP.No.17232 of 2019 &
WMP No.16770 of 2019

T.Ramesh

.. Petitioner

versus

1. The Joint Director,
Department of Animal Husbandry,
Vellore-632 004.

2. The Assistant Director,
Office of the Assistant Director
Animal Disease Intelligence Unit,
Vellore-632 004.

3. The Veterinary Doctor and
Inquiry Officer,
Walajah, Vellore District.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in proceedings in Na.Ka.No.83/2016 dated 17.12.2018, quash the same and consequently, direct the 2nd respondent to keep the disciplinary proceedings initiated against the petitioner vide proceedings in Na.Ka.No.83/2014 dated 30.06.2015 in abeyance till the conclusion of the criminal trial in Crime No.86/2015 on the file of Vellore North Police Station.

For Petitioner : Mr.S.Sathia Chandran
For Respondents : Mr.J.Pothiraj, Spl.GP

ORDER

This Writ Petition has been filed, seeking for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in proceedings in Na.Ka.No.83/2016 dated 17.12.2018, quash the same and consequently, direct the 2nd respondent to keep the disciplinary proceedings initiated against the petitioner vide proceedings in Na.Ka.No.83/2014 dated 30.06.2015 in abeyance till the conclusion of the criminal

trial in Crime No.86/2015 on the file of Vellore North Police Station.

2. By order dated 17.12.2018, impugned in the Writ Petition, the 2nd respondent rejected the request of the petitioner to defer the departmental enquiry till the completion of the criminal proceedings initiated against him. According to the learned counsel Mr.S.Sathia Chandran, appearing for the petitioner, a criminal case is pending in Crime No.86/2015 on the file of Vellore North Police Station, unless the same is concluded, it would not be fair for the Department to proceed against him departmentally.

3. However, according to the learned Special Government Pleader appearing for the respondents, mere pendency of the criminal case does not bar for the Department to proceed against him in terms of disciplinary rules.

4. This Court has perused the pleadings and the materials placed on record. It appears that the petitioner has already approached this Court in W.P.No.24312 of 2015, wherein, a direction was also sought for by the same petitioner to conduct the departmental enquiry in accordance with relevant rules and also in compliance of the principles of natural justice. A learned Judge who dealt with the said Writ Petition, by order dated 26.07.2017, has disposed of the said Writ Petition with the observation as found in paragraphs 7 to 10 which reads as under:

"7. Without going into these aspects, this Court is of the view that the enquiry proceedings need not be stalled unnecessarily and once the disciplinary proceedings are initiated against an employee, it must reach its logical conclusion.

8. However, the learned Additional Government Pleader, on behalf of the respondents, submitted a letter, dated 24.7.2017, stating that the Disciplinary Authority has admitted the lapses occurred at that point of time and they are ready to withdraw those letters and proceed afresh with the disciplinary enquiry in accordance with the rules.

9. It is sufficient if the enquiry proceedings are commenced from the place where the error occurred and in this view of the matter, the respondents are bound to continue the enquiry proceedings in accordance with the rules.

10. Accordingly, no further adjudication is required to be undertaken in this writ petition and the writ petition stands disposed of. However,

there shall be no order as to costs. Consequently, connected miscellaneous petition is closed."

5. From the above, it could be seen that the learned Judge of this Court has categorically held that the respondents are bound to continue with the enquiry proceedings in accordance with the rules and refused to entertain the Writ Petition. Once this Court has held that the enquiry proceedings are bound to be completed and such a ruling came at the instance of the petitioner herein, this Court is unable to appreciate as to how the present Writ Petition is maintainable by the writ petitioner, challenging the continuation of the departmental proceedings. It appears that the writ petitioner, as an after thought, has moved the present Writ Petition before this Court since he failed to obtain any relief in the earlier writ petition filed by him. It is also to be seen from the records that the enquiry notice has been issued to the petitioner on 31.01.2019 and on 12.3.2019, however, the petitioner has not chosen to appear for the enquiry, which prompted the Enquiry Officer to set him ex parte and thereafter submitted a report. In pursuance of the submission of the report, a second show cause notice was also issued on 3.5.2019 and at this stage, the petitioner approached this Court in order to stall the remaining part of the disciplinary action.

This Court is of the considered view that the Writ Petition cannot be entertained in view of the circumstances illustrated above. However, if the petitioner chooses to participate in the further departmental proceedings, he may respond to the show cause notice and also seek for reopening of the departmental enquiry which was concluded against him ex parte. In any event, this Writ Petition cannot be entertained as the same lacks bona fides on the part of the petitioner. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected WMP is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To
1. The Joint Director,
Department of Animal Husbandry,
Vellore-632 004.

2. The Assistant Director,
Office of the Assistant Director
Animal Disease Intelligence Unit,
Vellore-632 004.

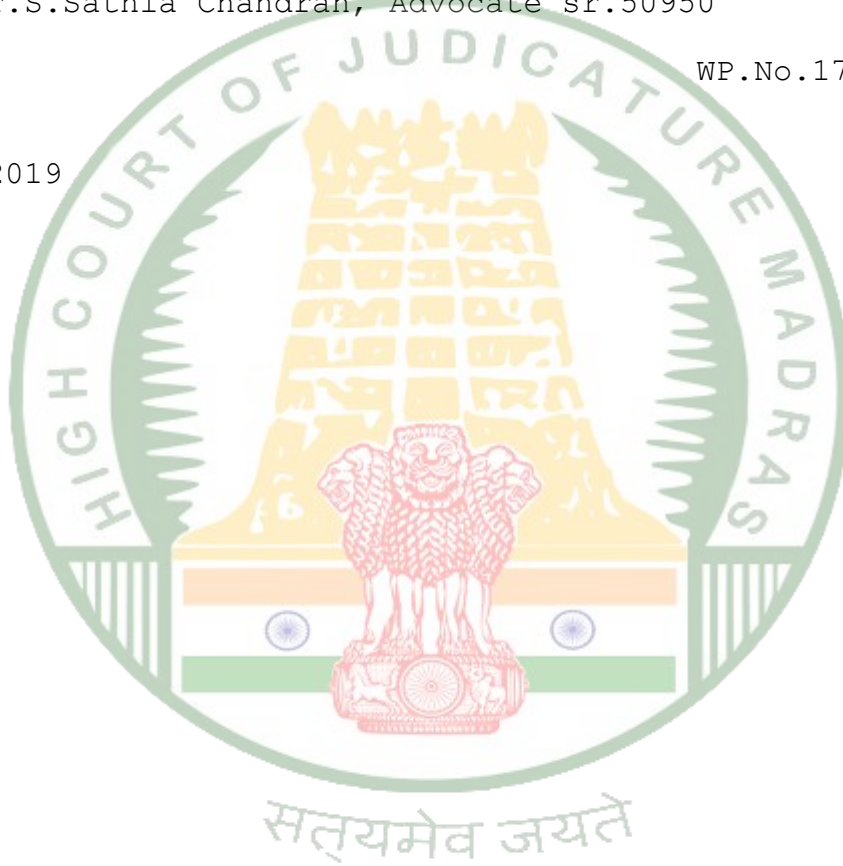
3. The Veterinary Doctor and
Inquiry Officer,
Walajah, Vellore District.

+lcc to Government Pleader sr.51684

+lcc to Mr.S.Sathia Chandran, Advocate sr.50950

WP.No.17232 of 2019

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