

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

WP.No.17880 of 2019 &
W.M.P.Nos.17284 & 17287 of 2019

B.Murugadoss

... Petitioner

versus

1. The Director of Public Health and
Preventive Medicines,
No.359, Anna Salai, DMS Campus,
Chennai-600 006.

2. The Deputy Director of Health Services,
Thiruvarur District,
Thiruvarur.

3. The Enquiry Officer,/Administrative Officer,
O/o The Deputy Director of Health Services,
Thiruvarur District,
Thiruvarur.

.... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, to consider the petitioner's representation dated 03.06.2019 for change of Enquiry Officer and the place of enquiry with reference to the charge memo issued by the 2nd respondent in Na.Ka.No.8235/A3 dated 04.04.2019 and 02.05.2019 to ensure fair and impartial enquiry and to conduct the enquiry in the manner known to law and direct the respondents to reinstate the petitioner by revoking the order of suspension issued by the 2nd respondent in Na.Ka.No.8235/A3 dated 26.10.2018.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.J.Pothiraj, Spl.GP

ORDER

The petitioner has come forward with the present Writ Petition, seeking to challenge the charge memoranda issued against the petitioner.

2. According to the petitioner, 3rd respondent was appointed as an Enquiry Officer to go into the articles of charges framed against him and since the Enquiry Officer works under the control of the 2nd respondent, the enquiry proceedings will not be conducted in fair and impartial manner and therefore, the impugned charge memoranda is put to challenge.

3. Mr.G.Sankaran, learned counsel appearing for the petitioner would submit that there is no basis for issuance of charge memoranda and the petitioner is sought to be falsely implicated in the departmental proceedings. He would also submit that in view of the Enquiry Officer being subordinate to the authority who initiated disciplinary action against the petitioner, he submitted a representation for change of Enquiry Officer in order to ensure fair and impartial enquiry. According to him, the Enquiry Officer who was directly under the control of the 2nd respondent, may not conduct the enquiry in the manner known to law and there is every likelihood of he being pressurized by the 2nd respondent to determine the course of enquiry as per the wish of the 2nd respondent. In these circumstances, the petitioner challenged the charge memoranda and also sought interim injunction, restraining the respondents from proceeding with further enquiry.

4.This Court is unable to appreciate the submission made on behalf of the petitioner for the reason that the challenge to the charge memoranda, cannot be entered under any circumstances except on the ground of jurisdiction and hence, such submission has to be necessarily rejected and the writ petition is too premature, calling for interference of this Court. In fact, the petitioner is trying to impress upon this Court to accept his challenge on the basis of certain self-serving averments which can never be the basis for this Court to interfere at the stage of issuance of charge memoranda.

5. As regards the appointment of the 3rd respondent as Enquiry Officer is concerned, even before commencement of the enquiry, the petitioner presumed that the enquiry would not be conducted in a fair and impartial manner. Such presumption, according to this Court, is misplaced and baseless. Unless any existence of bias demonstrated or shown, merely because the 3rd respondent appears to be a subordinate to the appointing authority, it cannot give rise to any presumption over conducting impartial and fair enquiry by the Enquiry Officer. Merely on the basis of certain apprehensions alone, this Court cannot interfere for change of the Enquiry Officer. Therefore, the Writ Petition has to fail for the above said reasons. This Court finds that the challenge to the charge memoranda and also

to the appointment of the Enquiry Officer, is without any merit and substance.

Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected WMPs are closed.

s/d-

Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

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To

1. The Director of Public Health and
Preventive Medicines,
No.359, Anna Salai, DMS Campus,
Chennai-600 006.

2. The Deputy Director of Health Services,
Thiruvarur District,
Thiruvarur.

3. The Enquiry Officer,/Administrative Officer,
O/o The Deputy Director of Health Services,
Thiruvarur District, Thiruvarur.

+1cc to Mr.G.Sankaran, Advocate Sr.52815
+1cc to the Government Pleader SR.52836

WP.No.17880 of 2019

vba[col]
srg 27/07/2019

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