



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.18989 of 2019

and

W.M.P.No.18334 of 2019

K.Selvaraj

.. Petitioner

.Vs.

1.The Deputy Director of Medical Services,
Department of Medical and Rural Health Services,
Thiruvarur District,
Thiruvarur.

2.Dr.Rani Muthulakshmi,
Block Medical Officer,
Government Primary Health Centre,
Rayapuram, Thiruvarur.

..Respondents

Petition filed under Article 226 of The Constitution of India praying for issuance of a Writ of Certiorari to call for the records pertaining to the enquiry report dated 18.06.2019 of the second respondent and the consequential proceeding bearing Na.Ka.No.6830/A1/2018 dated 19.06.2019 of the first respondent and quash the same.

For Petitioner : Mr.V.Chandrasekaran

For Respondents : Mr.V.Kathirvelu, Spl.GP

ORDER

Writ petition has been filed seeking for issuance of Writ of Certiorari to call for the records pertaining to the enquiry report dated 18.06.2019 of the second respondent and the consequential proceeding bearing Na.Ka.No.6830/A1/2018 dated 19.06.2019 of the first respondent and quash the same.

2. The petitioner was issued with a charge memo dated 25.09.2018 containing serious allegations of misconduct. The said charge memo was put to challenge by the petitioner in WP.No.30339 of 2018. This Court disposed of the writ petition on 26.03.2019. In the said writ petition, the writ petitioner assailed the charge memo on the ground that no reasonable time



was given to him to submit his explanation. After hearing the arguments, this Court has passed an order on 26.03.2019 giving the petitioner two weeks time to file his explanation and this Court specifically directed in paragraph no.5 of the order that the writ petitioner should co-operate for the early conclusion of the enquiry proceedings and in the event of any non-cooperation on the part of the writ petitioner, the same shall be recorded in the enquiry proceedings as well as by the disciplinary authority. Thereafter, it appears that the petitioner has submitted number of representations seeking for adjournment of the enquiry proceedings under some pretext or the other. In fact, one such representation was submitted on 11.06.2019, wherein, the petitioner expressed his inability to take part in the enquiry proceedings.

3. Thereafter, the proceedings were conducted ex-parte and a report was prepared on 18.06.2019. Enquiry report found that the petitioner guilty of the charges and a copy of the same was furnished to the petitioner directing him to submit his explanation on 19.06.2019. The said order is put to challenge in the present writ petition.

4. The learned counsel for the petitioner would submit that the petitioner has not been given proper opportunity to put forth his defence and therefore, he had to seek adjournments. Unfortunately, without giving him an appropriate opportunity to examine the witnesses in the departmental enquiry, the enquiry proceedings was hurriedly finalised and the report was also submitted holding the petitioner guilty of the charges. Therefore, the petitioner is before this Court, challenging the enquiry report.

5. This Court is unable to appreciate the challenge made to the enquiry proceedings by the petitioner, since this Court made it clear in its order dated 26.03.2019 in WP.No.30339 of 2018, that the petitioner must cooperate with the enquiry for early conclusion of the disciplinary proceedings. It appears that the petitioner, for some flimsy reasons or the other, was not inclined to participate in the enquiry and therefore, has acted contrary to the direction issued by this Court in the aforesaid writ petition. Once the petitioner was not found to be willing and inclined to participate in the enquiry for no serious reasons, he lost his right to question the enquiry report. Instead of cooperating with the departmental enquiry, the petitioner has chosen to approach this Court challenging the enquiry proceedings. Unless there is compelling reason for this Court to intervene in the departmental proceedings midway, this Court cannot entertain the writ petition of this nature when the petitioner himself is to be blamed completely, as he was not willing to cooperate with the enquiry. In fact, by his



conduct, the petitioner had not left any choice for the enquiry officer except to proceed with the enquiry ex-parte. Having invited such a situation, the petitioner cannot have any reason to complain against non-extension of proper opportunity to him in the departmental proceedings. On the whole, it is the petitioner's fault that the enquiry proceedings proceeded ex-parte and the report has been submitted.

6. For the above said reasons, this Court is not inclined to entertain this writ petition at this stage and therefore, the writ petition is dismissed as being not maintainable and also on merits. Although, this Court has dismissed the writ petition, it is always open to the petitioner to submit his representation to the disciplinary authority and seek for re-opening of the disciplinary enquiry if he is so advised. If such representation is made, the disciplinary authority shall consider the same on its own merits and pass appropriate orders. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Deputy Director of Medical Services,
Department of Medical and Rural Health Services,
Thiruvarur District,
Thiruvarur.

+lcc to Mr.V.Chandrasekaran, Advocate, SR.No.55879
+lcc to the Govt.Pleader, Vide Sr.No.55981

W.P.No.18989 of 2019

Kak(29/08/2019)