

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.31078 of 2019

and W.M.P.No.31199 of 2019

M.Prakash Babu

..Petitioner

vs

1.The Government of Tamil Nadu
represented by its Additional Chief Secretary
Home (Police) Department
Fort. St. George, Chennai-600 009.

2.The Director-General of Police
Tamil Nadu
Chennai-600 004.

3.The Deputy Inspector-General of Police
Kanchipuram Range
Kanchipuram 631 501.

4.The Superintendent of Police
Kanchipuram District
Kanchipuram 631 501.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the respondents relating to impugned charge memorandum framed by the 4th respondent in P.R.No.110/2018 dated 18.10.2018 and consequential order of the 2nd respondent in Rc.No.Con.II(2)/157697/2018, dated 30.09.2019 and quash the same.

For Petitioner : Mr.K.Raja
for Mr.N.Kolandaivelu

For Respondents : Mr.A.N.Thambi Durai
Special Government Pleader

O R D E R

Writ Petition is filed for issuance of Writ of Certiorari calling for the records of the respondents relating to impugned charge memorandum framed by the 4th respondent in P.R.No.110/2018

1/6

dated 18.10.2018 and consequential order of the 2nd respondent in Rc.No.Con.II(2)/157697/2018, dated 30.09.2019 and quash the same.

2. Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents. By consent, the writ petition is taken up for final disposal.

3.The case of the petitioner is that he is presently working as Assistant Commissioner of Police. While he was working as Inspector of Police in Kelampakkam Police Station, one Mr.C.Kalaichelvan, Advocate, gave a complaint with regard to land grabbing on 23.09.2015. After obtaining opinion from the Director of Prosecution, the petitioner registered an F.I.R. manually on 04.10.2015 in crime No.410/2015. Thereafter, the Sub-Inspector of Police, has also suo motu registered an F.I.R. on 03.10.2015, that is prior to the date on which the petitioner has registered the case, on the very same crime number i.e., Crime No.410/2015. Thereafter, impugned charge memo was issued by the Superintendent of Police/4th respondent against the petitioner on 18.10.2018. Challenging the same, the present writ petition is filed.

4. Learned counsel appearing for the petitioner submitted that 2nd respondent is a competent authority to issue charge memo and in contrary, 4th respondent, who is not a competent authority, has issued charge memo against the petitioner and the same is bad in law. However, he further submitted that as per the decision of the Hon'ble Apex Court reported in 1996 (2) SCC 145 (Inspector General of Police vs. Thavasiappan), lower authority can initiate disciplinary proceedings and however, punishment can be imposed only by the competent authority. In view of the above decision, it would suffice, if this Court issues direction to the respondents to complete the enquiry after affording an opportunity of personal hearing to the petitioner within the reasonable time.

5. Learned Special Government Pleader appearing for the respondents would submit that this Court may fix time limit to complete the enquiry and the petitioner can raise all the above grounds in the enquiry.

6. Considering the limited request made by the learned counsel appearing for the petitioner, this Court hereby directs the respondents to complete the enquiry after affording an opportunity of personal hearing to the petitioner and pass appropriate orders on merits and in accordance with law, within

a period of twelve weeks from the date of receipt of a copy of this order.

7. The writ petition is accordingly disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kj

To

1.The Additional Chief Secretary,
Government of Tamil Nadu
Home (Police) Department
Fort. St. George, Chennai-600 009.

2.The Director-General of Police
Tamil Nadu
Chennai-600 004.

3.The Deputy Inspector-General of Police
Kanchipuram Range
Kanchipuram 631 501.

4.The Superintendent of Police
Kanchipuram District
Kanchipuram 631 501.

+1cc to Mr.N.Kolandaivelu, Advocate sr.91381
+1cc to Government Pleader SR.NO. 91783

W.P.No.31078 of 2019
and W.M.P.No.31199 of 2019

mp(co)
nr 13/12/2019