

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.03.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.32696 of 2018
and
W.M.P.No.37893 of 2018

K.Krishnamurthy

..Petitioner

..vs..

- 1.Principal Secretary to Government,
Revenue and Disaster Department,
Service Wing, Service 2(2) Section,
Secretariat, Chennai - 600 009.
 - 2.The Commissioner of Revenue Administration
and Disaster Management Department,
Ezhilagam, Chepauk,
Chennai - 600 005.
 - 3.The Managing Director,
Tamil Nadu Civil Supplies Corporation Ltd.,
No.12, Thambusamy Road, Kilpauk,
Chennai - 600 010.
 - 4.Thiru.C.Muthukumaran, (Inquiry Officer)
Former District Revenue Officer, Viruthunagar,
Now: District Revenue Officer/Zonal Officer,
Corporation of Chennai,
Chennai - 600 003.
- .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the 1st respondent letter No.8796/Ser.2(2) 2018-1, dated 11.05.2018 and quash the same as illegal.

For Petitioner : Mr.P.Balasubramanian

For Respondents : Mr.A.N.Thambidurai
Special Government Pleader
for R1, R2 & R4

Mr.L.P.Shanmugasundaram for R3

O R D E R

The second show cause notice dated 11.05.2018, seeking explanations / objections of the writ petitioner on the enquiry report is under challenge in the present writ petition.

2. The learned counsel for the writ petitioner states that the petitioner is no way connected with the allegations, set out in the charge memorandum and he denied the charges even at the first instance, in spite of an enquiry was conducted by the Enquiry Officer. The petitioner submitted his final report on 17.11.2017, enclosing the copy of the enquiry report. The Competent Authority issued a show cause notice providing an opportunity to the writ petitioner to submit his explanations / objections on the enquiry report within a period of 15 days from the date of receipt of a copy of this order.

3. The learned counsel for the writ petitioner states that the writ petitioner had already submitted his explanations on the enquiry report and the present writ petition is filed in view of the fact that the writ petitioner is totally unconnected with the allegations set out in the charge memorandum.

4. The facts and the merits at this stage deserves no consideration on the hands of this Court. But Authorities are yet to pass final orders in the departmental disciplinary proceedings. Undoubtedly, the Authorities Competent are bound to consider the facts, details, merits and the materials available on record before passing the final orders in the departmental disciplinary proceedings. Thus, such facts and circumstances, which all are disputed between the parties can never be adjudicated in a writ proceedings as the final order is yet to be passed by the Competent Authority.

5. No writ petition can be entertained against the show cause notice in a routine manner. Judicial review against the show cause notice is certainly limited. A show cause notice is challenged, if the same has been issued by the incompetent authority having no jurisdiction or allegation of malafides are raised or if the same is in violation of statutory rules in force. Even in case of raising an allegation of malafides, the authority whom such an allegation is raised, has to be impleaded as a party respondent in his personal capacity. In the absence of any one of these legal grounds, no writ petition can be entertained against the show cause notice.

6. Intermittent interventions in departmental disciplinary proceedings are not desirable. The Authorities Competent on initiation of disciplinary proceedings must be allowed to continue the same and conclude within a reasonable period of

time. Frequent interferences in such departmental disciplinary proceedings would cause prejudice to the proceedings itself. Only on exceptional circumstances, when a delinquent official is able to establish that there is a gross injustice or procedural violation then alone the Court can entertain the writ petition and issue suitable orders. Contrarily, during the pendency of the departmental disciplinary proceedings, the same must be allowed to reach its logical conclusion.

7. This being the principles to be followed, this Court is of an opinion that the case of the writ petitioner is to be considered based on the materials available on record and the final order is to be passed by the Competent Authority.

8. In the present case on hand, the writ petitioner has already submitted his explanations / objections and therefore, the respondents are bound to consider the explanations / objections submitted by the writ petitioner and take a decision and pass orders on merits and in accordance with law as expeditiously as possible and without causing any undue delay.

9. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

pns

To

- 1.Principal Secretary to Government,
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Former District Revenue Officer, Viruthunagar,
Now: District Revenue Officer/Zonal Officer,
Corporation of Chennai,
Chennai - 600 003.

+2 cc's to M/s.P.R.Balasubramanian, Advocate, Sr.No. 29323

+1 cc to M/s.L.P.Shanmugasundaram, Advocate, Sr.No. 29416

+1 cc to The Government Pleader, Sr.No. 29816

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CP(CO)
CSL/26.04.2019



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