



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.21091 of 2017

and

W.M.P. (MD) No.17341 of 2017

K.Ganesan

... Petitioner

-Vs-

1.The District Collector,
Pudukkottai District.

2.The Deputy Director of Health Services,
Pudukkottai.

3.The Revenue Inspector,
Pudukkotai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the respondents from proceeding under the Revenue Recovery Act, against the petitioner till the conclusion of pending criminal and departmental proceedings.

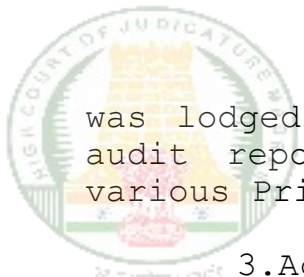
For Petitioner : Mr.J.Anandkumar

For Respondents : Mr.V.Anand,
Government Advocate.

ORDER

This Writ Petition is filed to forbear the respondents from proceeding under the Revenue Recovery Act, against the petitioner, till the conclusion of pending criminal and departmental proceedings.

2.According to the petitioner, he retired as Superintendent in the second respondent office, on attaining the age of superannuation on 28.02.2015. At the time of his retirement, there were no criminal proceedings pending against the petitioner. After his retirement, the petitioner was called for enquiry by the District Crime Branch, Pudukkottai and was informed that a complaint



was lodged against the petitioner and three others, alleging that audit report raises certain queries of excess payment made to various Primary Health Centres in Pudukkottai District.

3. According to the petitioner, the Administrative Officer and the second respondent alone are the cheque signing authority and the petitioner is not an independent authority either to draw or issue cheque. The disciplinary proceedings are initiated against the petitioner, by issuing charge memo, dated 10.06.2016 and the same is pending. While so, the second respondent, by an order dated 25.07.2017, has directed the petitioner to deposit a sum of Rs.1,22,00,800/- (Rupees One Crore Twenty Two Lakhs and Eight Hundred Only) being the alleged misappropriated amounts. Without concluding the enquiry proceedings and taking decisions on the departmental disciplinary proceedings, the petitioner is directed to deposit the said amount. The Revenue Inspector came to the petitioner's house and informed him that the first respondent has instructed him to collect the amount under Revenue Recovery Act. No notice or opportunity was given to the petitioner before passing of the order dated 25.07.2017. In such circumstances, the petitioner has come out with the present Writ Petition.

4. The respondents have not filed any counter affidavit. The learned Government Advocate appearing for the respondents submitted that the petitioner has given an undertaking letter that he will pay the amount of Rs.1,22,00,800/-. He submitted that the petitioner was permitted to retire from service on attaining the age of superannuation on the strength of undertaking given by the petitioner on 28.02.2015 that he will repay the entire amounts towards settlement of audit objections that may be raised, while conducting audit on a later stage. Further, on initiation of disciplinary proceedings, the petitioner was given opportunity to remit the said amount of Rs.1,22,00,800/- being misappropriated by him. The petitioner has not paid the amount, as undertaken by him at the time of retirement and prayed for dismissal of the Writ Petition.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record carefully.

6. From the materials on record, it is seen that the disciplinary proceedings initiated by the respondent and criminal case are pending. There is no liability fixed on the petitioner and no notice was issued with regard to the proceedings under the Revenue Recovery Act. The contentions made by the petitioner in this regard are not denied by the respondents. The respondents have not produced any order, fixing the liability of Rs.1,22,00,800/- on the petitioner. They have also not denied that the domestic enquiry is pending.



7. For the above reasons, this Writ Petition stands allowed.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (AD-I)

WEB COPY/TRUE COPY/

Sub Assistant Registrar

Myr

To

1. The District Collector,
Pudukkottai District.
2. The Deputy Director of Health Services,
Pudukkottai.
3. The Revenue Inspector,
Pudukkotai.

+1 CC to M/s.J. ANANDKUMAR, Advocate (SR-90454[F] dated
30/09/2019)

W.P. (MD) No.21091 of 2017
30.09.2019

JM/22.10.2019/3P/5C