

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.17464 of 2019

ORDER:

Heard Sri P.Lalitha Kamesh, learned counsel for the petitioner and the learned Government Pleader for Services-I.

With the consent of learned counsel for the respective parties, this Writ Petition is disposed of at the admission stage.

This Writ Petition is filed for the following relief:

“.....Writ of Mandamus by declaring the action of the respondent No.3 in not taking any action upon the petitioner's representation dated 01.08.2019 as the incumbent was ready to retirement in this month and the incumbent was involved in the Crime No.85/2016 dated 29.06.2016, is illegal, arbitrary and violative of principles of natural justice and against the articles 14, 16, 19, 21 of Constitution of India and consequently direct the respondent No.3 to consider the representation of the petitioner dated 01.08.2019 in the interest of justice.....”

It has been contended by the petitioner that he is a legal practitioner and claims to be a land lord of an extent of Ac.7.05 in Sy.No.628 situated in the limits of Revenue Village of Phanigiri. While so, the petitioner had filed a criminal case against the 6th respondent, who is accused No.3 in Crime No.85 of 2016 of P.S. Thirumalagiri, alleging that the 6th respondent along with others has trespassed into his land and damaged the crop, wherein the police have filed a charge sheet and the same is pending before the Judicial I Class Magistrate, Thungathurthy, Suryapet District. The petitioner contends that he also submitted a representation on 01.08.2019 to the 3rd

respondent to take appropriate action against the 6th respondent, but so far, the 3rd respondent has not passed any orders on the said representation.

Learned counsel for the petitioner contends that the action of the 3rd respondent in not taking action against the 6th respondent by acting on the representation dated 01.08.2019 of the petitioner and also the action of the 3rd respondent in allowing the 6th respondent to draw salary, is arbitrary, illegal and contrary to law. Therefore, learned counsel for the petitioner contends that appropriate orders be passed in the writ petition directing the 3rd respondent to act on the representation dated 01.08.2019 of the petitioner and initiate disciplinary action against the 6th respondent.

Learned Government Pleader appearing for the respondents contends that the allegations leveled against the 6th respondent have got nothing to do with his official duties and if the petitioner has any grievance against the 6th respondent, he has to pursue his remedies in accordance with law in the criminal case pending against the 6th respondent. He further contends that criminal case filed against the 6th respondent is only at the stage of trial and the 6th respondent has not yet been convicted in the said crime. Therefore, until and unless the competent criminal court convicts the 6th respondent, no disciplinary action can be initiated against him merely basing on the representation dated 01.08.2019 of the petitioner.

This Court, having considered the rival submissions made by the learned counsel on either side, is of the considered view that the alleged incident of trespass by the 6th respondent into the land of the petitioner has occurred way back on 29.06.2016 and petitioner had submitted a representation to respondent No.3 on 01.08.2019 and without waiting for minimum period for the outcome of the said representation, the petitioner straight away approached this Court seeking a direction to the 3rd respondent to initiate action against the 6th respondent. Apart from that, the petitioner has no locus to submit a representation to initiate disciplinary action against the 6th respondent for alleged trespass into his land. As long as respondent No.6 is discharging his duties, he is entitled for payment of salary. On mere pending of adjudication of the criminal case against the 6th respondent, before the Judicial I Class Magistrate, Thungathurty, Suryapet District, no disciplinary action can be initiated by the 3rd respondent against respondent No.6.

Therefore, this Court is not inclined to interfere with the case and the writ petition is accordingly dismissed. No order as to costs.

As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

16.08.2019
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