



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2020

CORAM

THE HON'BLE MR. JUSTICE V.PARTHIBAN

W.P.NO.19654 OF 2020

&

W.M.P.NO.24286 OF 2020

K.Senthil Kumar

...Petitioner

Vs.

1.The Senior Regional Manager,
(TASMAC),
Tamil Nadu State Marketing Corporation Ltd,
Salem-16

2.The District Manager,
(TASMAC),
Tamil Nadu State Marketing Corporation Ltd,
Namakkal District.

...Respondents

Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to defer all further proceedings pursuant to the charge memo in Na.Ka.No.237/P1/C.V./2020 dated 06.10.2020 on the file of the second respondent pending criminal proceedings in Crime No.184 of 2020 dated 21.04.2020 before the Inspector of Police, Puduchatram, Namakkal.

For Petitioner .. Mr.R.Jayaprakash

For Respondents .. Mr.K.Sathish Kumar,
Standing counsel.

ORDER

The petitioner herein before this Court, is seeking a direction to the respondents to defer the disciplinary proceedings initiated against him pursuant to the charge memo dated 06.10.2020 on the ground that on the same set of allegations, an FIR has been registered in Crime No.184 of 2020 dated 21.04.2020 on the file of the Puduchatram Police Station, Namakkal.



2. The facts, in brief, are that the petitioner was working as a Salesman in Shop no.5949 at Pillanallur under the control of the second respondent. On 21.04.2020, during the period of a complete lock-down due to Covid 19 situation, the petitioner was found in possession of liquor bottles and therefore, he was proceeded by registration of FIR under Section 4(1) (a) of Tamil Nadu Prohibition Act 1937. In that regard, the petitioner was also placed under suspension by the second respondent vide his proceedings dated 22.04.2020.

3. Thereafter, the second respondent issued a charge memo dated 06.10.2020 for the act of mis-conduct said to have been committed by the petitioner under the Code of Prevention and Detection of Fraudulent in Tamilnadu State Marketing Corporation Limited-2014.

4. The challenge in the Writ Petition is that since for the same alleged acts on the part of the petitioner, he is being proceeded against by issuance of a charge memo, as per the Hon'ble Supreme Court's dictum on this aspect, the departmental proceedings need to be deferred till the conclusion of the criminal action initiated against the petitioner. The entire Writ Petition is premised on the said challenge.

5. This Court is unable to appreciate stand of the petitioner since the Hon'ble Supreme Court's decision cited in the affidavit, cannot be applied across the board, regardless of the fact situation. In this case, first of all there is no criminal case pending, but only FIR registered against the petitioner. What are the materials which have to be relied upon by the prosecution and the witnesses to be examined, are not known. Even otherwise, the misconduct is sought to be established against the petitioner under the Service Regulations mentioned in the charge memo and that may not be having any bearing on the petitioner being proceeded by criminal action under the T.N. Prohibition Act. More over, the mis-conduct may have a different form and substance, when the petitioner is proceeded departmentally and in that view of the matter, it is not open to the petitioner to seek a direction to defer the departmental action for an indefinite period of time. Therefore, this Court finds that the Writ Petition is not maintainable and devoid of legal merits and hence liable to be dismissed.



6. Accordingly, the Writ Petition fails and it is dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

SR

To

1.The Senior Regional Manager,
(TASMAC),
Tamil Nadu State Marketing Corporation Ltd,
Salem-16

2.The District Manager,
(TASMAC),
Tamil Nadu State Marketing Corporation Ltd,
Namakkal District.

3.The Inspector of Police,
Puduchatram, Namakkal.

+1cc to Mr.R.Jayaprakash, Advocate, S.R.No.42658

W.P.No.19654 of 2020

SR(CO)
KKV/26/02/2021