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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

WP.No.15525/2021 & WMP.No.16445/2021

[Video Conferencing]

K.Sriram

...Petitioner

Vs

1.The Hon'ble Commissioner
Khadi village Industries Commission,
KVIC, No.126, Avai Shanmugam Salai
Gopalapuram, Chennai 600 006.

2.Koduvai Sarvodaya Sangam
rep.by its Secretary,
Registered No.S157/1961
Head Office, Vinobha Nagar
Koduvai-638 660
Tiruppur District.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of certiorari calling for the records of proceedings/notice in KSS 56/21-22 dated 15.07.2021 on the file of the 2nd respondent herein and quash the same.

For Petitioner : Mr.N.Ponraj

ORDER

1. The present writ petition is filed challenging the order of the 2nd respondent dated 15.07.2021 with a prayer to quash the same.
2. The petitioner is working as Manager in the 2nd respondent Sangam. Making serious allegations against the petitioner on different counts, a show cause notice was issued to him. Since the show cause notice was not received by the petitioner, it was later on published in a newspaper. The charges against the petitioner are relating to his non-performing the official duty and insubordination. The publication of the show cause notice was on 14.07.2021. The petitioner submitted his reply on 15.07.2021 itself stating



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the charges are not proved as the same is passed on unsubstantiated allegations. Thereafter, the 2nd respondent passed the impugned proceedings on 15.07.2021 after taking a decision to conduct domestic enquiry on 26.07.2021. The petitioner was also informed that an Advocate by name Subbarayan is appointed as the Enquiry Officer. Challenging the said proceedings, the present writ petition is filed.

3. The learned counsel for the petitioner would submit that the 2nd respondent has fixed the date of enquiry and therefore, the proceedings suffer from legal mala fides. He would further submit that the impugned order is passed without considering the reply given by the petitioner and the same vitiates the impugned order. Further, the 2nd respondent has prevented the petitioner from engaging an Advocate of his choice and hence, prays for interference.
4. This Court has considered the arguments advanced by the learned counsel for the petitioner and also perused the materials placed before it.
5. None of the contentions raised by the petitioner are sustainable. Merely because the 2nd respondent has fixed the date of enquiry, it does not imply that the enquiry as contemplated, will be conducted by the 2nd respondent himself. When an officer is appointed to conduct the enquiry, the respondents may fix the first date of hearing as a disciplinary authority to ensure commencement of enquiry without further delay. The petitioner has submitted a representation/reply immediately on 14.07.2021 itself, the date on which the show cause notice was published in the newspaper. It is the contention of the petitioner the 2nd respondent has passed the impugned proceedings on 15.07.2021 in a hurried manner, without considering the reply of the petitioner submitted in response to the show cause notice. From a reading of the impugned order, it is seen that the respondents have clearly stated that the explanation submitted by the petitioner are not acceptable and therefore, the 2nd respondent has decided to conduct the domestic enquiry against the petitioner in respect of the charges.
6. The petitioner has also not produced before this Court the Service Rules of procedure in relation to the domestic enquiry. Unless the appointment of the Enquiry Officer and the procedure indicated by the respondents in the impugned order are contrary to the Rules or the procedure that is framed, the petitioner cannot have any grievance. In case the petitioner is able to point out that as per Rules, the petitioner can engage an Advocate of his choice to defend himself before the Enquiry Officer, it is open to the



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petitioner to make a representation with specific reference to the Rules and Regulations that enable him to get the assistance of an Advocate and if such representation is made before the Enquiry Officer, the Enquiry officer may deal with it appropriately.

7. With the above observation, the writ petition stands dismissed at the admission stage itself. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

AP

To

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PCH(CO)
SB(25/08/2021)