



WP(MD)Nos.1007 of 2020, 15431 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 17.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

**W.P.(MD)Nos.1007 of 2020, 15431 of 2021**

**and**

**W.M.P.(MD)Nos.812, 813 & 4618 of 2020, 12340, 12341, 12342 of 2021**

A.V.Arul Singh

: Petitioner in both WPs

Vs.

1.The Chairperson,  
Arasu Rubber Corporation Ltd.,  
T.N.Bio-Diversity Green Project,  
Project Management Unit Office,  
Vellacherry – Tambaram Main Road,  
Nanmangalam, Madavakkam,  
Chennai – 600 100.

2.The Managing Director,  
Arasu Rubber Corporation Ltd.,  
Registered Office, Vadasery,  
Nagercoil,  
Kanyakumari District.

3.The Enquiry Officer,  
General Manager (i/c),  
Arasu Rubber Corporation Ltd.,  
Registered Office, Vadasery,  
Nagercoil,  
Kanyakumari District.

: Respondents in WP(MD)1007/20



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1. The Principal Secretary to Government,  
Environment and Forest Department,  
Secretariat,  
Chennai – 9.

2. The Chairman,  
Arasu Rubber Corporation Ltd.,  
T.B.G.P. Office Building,  
Vellacherry – Tambaram Main Road,  
Nanmangalam, Medavakkam,  
Chennai – 600 100.

3. The Managing Director,  
Arasu Rubber Corporation Ltd.,  
Registered Office, Vadasery,  
Nagercoil,  
Kanyakumari District – 629 001.

4. The Enquiry Officer,  
Deputy Conservator of Forests  
& General Manager,  
Arasu Rubber Corporation Ltd.,  
Nagercoil,  
Kanyakumari District.

: Respondents in WP(MD)15431/21

**PRAYER in WP(MD)1007/2020:** Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorari calling for the records pertaining to the impugned order in Ref.No.E2/16576/17 dated 28.12.2019 on the file of the third respondent and quash the same as illegal.

**PRAYER in WP(MD)15431/2021:** Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorari calling for the records pertaining to the impugned report passed in Ref.No.Ch/1/2018 dated 23.01.2018



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on the file of the second respondent and the consequential impugned order in Letter No.23794/FR.8/2017-3 dated 14.02.2018 on the file of the first respondent and the consequential impugned order in Ref.No.E2/16576/17-1 dated 26.07.2018 on the file of the third respondent and the consequential impugned enquiry notice in Ref.No.E2/16576/17 dated 07.08.2021 on the file of the fourth respondent and quash the same as illegal.

For Petitioner : Mr.I.Ashwin Rajasimman  
for Mr.T.Lajapathi Roy

For Respondents : Mr.A.Kannan,  
Additional Government Pleader

[In both WPs]

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### **COMMON ORDER**

WP(MD)No.1007 of 2020 is filed by the petitioner as against the enquiry notice dated 28.12.2019, directing the petitioner to attend the enquiry on 14.01.2020.

2.WP(MD)No.15431 of 2021 is filed by the petitioner as against the order dated 23.01.2018 passed by the Chairman, Arasu Rubber Corporation Ltd., and the consequential orders dated 14.02.2018, 26.07.2018 and 07.08.2021 passed by the Principal Secretary to Government, Environment and Forest Department. By the



order dated 23.01.2018, the Chairman, Arasu Rubber Corporation Ltd., suggested to take departmental proceedings as against the petitioner. Accordingly, by impugned letter dated 14.02.2018, the Principal Secretary to Government, directed the Managing Director, Arasu Rubber Corporation Ltd., Nagercoil, to initiate departmental action, based on the report of the Chairman, Arasu Rubber Corporation Ltd. By proceedings dated 26.07.2018, charge sheet was issued to the petitioner and by proceedings dated 07.08.2021, enquiry officer was appointed.

3.Since both the writ petitions pertain to the departmental proceedings initiated as against the petitioner by the respondents, both the writ petitions are taken up together and are disposed of by way of this common order.

4.The case of the petitioner is that he was appointed as Field Assistant in the Arasu Rubber Corporation Ltd., on 08.08.1988 and when he was working as Field Officer at Manalodai Division, Kanyakumari, there were heavy rains in and around Kanyakumari District on 30.11.2017, due to which, the replanted rubber trees were slanted. According to the petitioner, in the process of rectifying the damages, the then Managing Director and then General Manager directed the



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petitioner to spend Rs.3,00,000/- and get back more than that amount by doing corruption or malpractice in Arasu Rubber Corporation Limited. Hence, he made a complaint to the Chief Secretary; the Vigilance Commissioner; the Secretary to Government, Forest Department; and the Principal Chief Conservator of Forest. However, no proper enquiry was conducted by any of the higher officials. Instead, the then Managing Director has sent an enquiry notice dated 12.01.2018 to the petitioner and the petitioner also appeared for enquiry on 18.01.2018 and submitted his written statement. Now the grievance of the petitioner is that certain documents sought for by him were not furnished and he has also made complaints against the enquiry officer, who is working under the Managing Director of Rubber Corporation. As there is no action against the enquiry officer, the petitioner is before this Court with these writ petitions.

5.Learned Counsel appearing for the petitioner submitted that the order of this Court in WP(MD)No.12416 of 2019, dated 29.05.2019, directing the second respondent to furnish the statement of witnesses to the petitioner has not been complied with. The respondents replaced the earlier enquiry officer with a new officer to conclude the disciplinary proceedings, without taking note of these writ petitions pending before this Court.



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6.Learned Additional Government Pleader appearing for the respondents filed a detailed counter affidavit, wherein, it is stated that after the framing of charges under Rule III(2) of Arasu Rubber Corporation Rules, a set of nine documents and another set of three documents, along with the charge memo, have been furnished to the petitioner and he has also acknowledged the receipt of those documents on 28.08.2018 and 22.03.2019, respectively. According to the learned Additional Government Pleader, the petitioner has already received the documents and now claiming some more documents only to protract the enquiry.

7.This Court paid it's anxious consideration to the rival submissions and also to the materials placed on record.

8.These writ petitions are filed by the petitioner as against the appointment of enquiry officer and the notice issued in the departmental proceedings. The Managing Director, Arasu Rubber Corporation Ltd., Kanyakumari, has initiated the departmental proceedings on the directions of the Chairman, Arasu Rubber Corporation Ltd., Chennai and the Principal Secretary to Government,



Environment and Forest Department. The petitioner is issued with a charge memo and now facing the departmental proceedings. A mere charge memo does not amount to an adverse order, which vitiates the rights of a party and therefore, the Courts, normally, restrain to interfere with a charge memo, unless it has been passed by an authority without jurisdiction.

9. In this regard, the Hon'ble Supreme Court, in its decision in ***Union of India and another v. Kunisetty Satyanarayana***, decided on 22.11.2006, has held as follows:

*“A mere charge sheet or show cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show cause notice or after holding an enquiry, the authority concerned may drop the proceedings and / or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show cause notice or charge sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, then the said party can be said to have any grievance.*



*Writ jurisdiction is discretionary jurisdiction and hence, such discretion under Article 226 should not ordinarily be exercised by quashing a show cause notice or charge sheet.”*

10. In view of the aforesaid decision, this Court is not inclined to entertain these writ petitions. The petitioner can raise all the grounds raised in these petitions before the enquiry officer.

11. Though the petitioner has filed these petitions challenging the enquiry notice and the appointment of enquiry officer, the petitioner now claims that he has sought for certain documents, but the same were not furnished to him. It appears that the petitioner has already filed a writ petition in WP(MD)No.12416 of 2019 asking for the statements of the witnesses. This Court, by order dated 29.05.2019, allowed the writ petition directing the second respondent therein to furnish the statements of witnesses to the petitioner. With an averment that the said order was not complied with, the petitioner has filed a contempt petition in Cont.P(MD)No.1160 of 2019 and the same was disposed of by this Court as follows:-



*“...the question of furnishing those statements will not arise... ... the witnesses are to depose straightaway in the regular enquiry, and the same will be recorded in the presence of the petitioner. Copy of the statement will have to be given to the petitioner and sufficient time for conducting cross examination also should be given...”*

12.The Department has also taken a specific stand in their counter affidavit that after framing of charges, a set of nine documents were furnished to the petitioner along with the charge sheet on 28.08.2018 and another set of three documents were furnished on 22.03.2019. The petitioner has also acknowledged receipt of the same. It is represented that this is the fourth writ petition filed by the petitioner and by filing petitions after petitions, the petitioner is protracting the proceedings.

13.In view of the foregoing discussions and the ratio of the Hon'ble Supreme Court referred to supra, this Court is not inclined to entertain these writ petitions. Accordingly, both the writ petitions stand dismissed. Considering the fact that the departmental proceedings is pending from the year 2018, there shall be a direction to the enquiry officer to conduct the enquiry and conclude the same



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within a period of six weeks from the date of receipt of a copy of this order. The petitioner as well as the Department shall co-operate with the enquiry officer.

There shall be no order as to costs. Consequently, connected miscellaneous petitions stand closed.

Index : Yes / No  
Internet : Yes  
vrn/gk

**17.11.2021**

To

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Arasu Rubber Corporation Ltd.,  
T.N.Bio-Diversity Green Project,  
Project Management Unit Office,  
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**B.PUGALENDHI, J.**

gk

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