



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P. (MD) No.4074 of 2021
and W.M.P. (MD).Nos.3271 & 3272 of 2021

S.Murugan

... Petitioner

Vs.

1.The Commissioner,
Disciplinary Proceedings,
The Tribunal for Disciplinary Proceedings for Corruption Cases,
Madurai.

2.The Deputy Superintendent of Police,
Vigilance & Anti Corruption,
Ramanathapuram.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance Writ of Certiorari, calling for the entire records pertaining to the proceedings initiated by the 1st respondent in R.O.C.No.A1/46/2020 (TDP.01/2020) and quash the same.

For Petitioner : Mr.R.Anand
For Respondents : Mr.A.Muthu Karuppan
Additional Government Pleader

O R D E R

Heard Mr.R.Anand, learned counsel for the petitioner and Mr.A.Muthu Karuppan, learned Additional Government Pleader, appearing for the respondents.

2.The scope of interference to a charge memo in a departmental action by exercising powers under Article 226 of Constitution of India, is very limited and the exceptions to such interference have been spelt out in various decisions of the Honourable Apex Court, as well as by this Court. Among such exceptions, if the delay in the proceedings causes prejudice to the party and by taking into account the gravity of offence, this Court would be justified in interfering with the charge memo, as held in the case of **the Secretary, Ministry of Defence and others Vs. Prabhas Chandra Mirdha** reported in (2012) 11 SCC 564. Likewise, in **Union of India and others Vs. Upendra Singh** reported (1994) 3 SCC 357, it was held that the High Court can interfere with the charge memo, if the charges framed do not construe any misconduct or irregularity or is contrary to law. Likewise, the incompetency of authority and *malafides* have also been held as exceptions in **K.Thirumurugan Vs. Additional Chief Secretary**



reported in **CDJ 2019 MHC 2167**.

3. In the instant case, though the petitioner has raised several grounds touching upon certain factual matrix, which seems to be plausible, this Court is unable to appreciate the same, in view of the well laid down principles on the scope of Article 226 of the Constitution of India for such interference.

4. So far as the merits of the grounds are concerned, this Court intends to direct the Enquiry Officer to proceed with the Departmental action and therefore, any comments or observation made on the grounds raised in this present writ petition, may have a direct bearing on the departmental action and consequently, this Court consciously refrains from making any such observations in this regard.

5. For all the foregoing reasons, no interference would be required to the impugned charge memo and consequently, the writ petition stands dismissed. However, the Enquiry Officer, while proceeding with the departmental action, shall extend due opportunities to the petitioners herein, by complying with the principles of natural justice and thereafter, pass a reasoned order, by taking into account the evidences available on record. The Enquiry Officer shall endeavour to complete the enquiry proceedings as expeditiously as possible. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

TM

NOTE:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Commissioner,
Disciplinary Proceedings,
The Tribunal for Disciplinary Proceedings for Corruption Cases,
Madurai.



2.The Deputy Superintendent of Police,
Vigilance & Anti Corruption,
Ramanathapuram.

+1 CC to M/s.SPL GP (SR-9160[F] dated 05/03/2021)

W.P. (MD) No.4074 of 2021
04.03.2021

MJ(CO)
TR(24.03.2021) 3P 4C