



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.06.2021

C O R A M

WEB COPY

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P. (MD) No. 10045 of 2021

and

W.M.P. (MD) No. 7757 of 2021

K.Saravanan

... Petitioner

-vs-

1.The Principal Secretary/Commissioner of Treasuries and Accounts,
Amma Complex, 3rd Floor,
Integrated Office Building for Finance Department,
No.571, Anna Salai,
Nandanam,
Chennai - 600 035.

2.The Assistant Treasury Officer,
Sub-Treasury,
Bhavani,
Erode District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records pertaining to the charge memo issued by the Respondent vide memo Na. Ka. No.29982/Q2/2018-2, dated 26.03.2021 and quash the same.

For Petitioner : Mr. R. Anand

For Respondents : Mr. P. Thilak Kumar
Counsel on behalf of
Government of Tamil Nadu

ORDER

Heard Mr. R. Anand, Learned Counsel for the Petitioner and Mr. P. Thilak Kumar, Learned Counsel on behalf of Government of Tamil Nadu, who takes notice for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the proceedings Na.Ka.No. 29982/Q2/2018-2 dated 26.03.2021 issued by the First Respondent, which is evidently a charge-memo for which the Petitioner has been required to submit his explanation. The consistent legal position has been reiterated by the Hon'ble Supreme Court of India in **Union**



of India -vs- Kunisetty Satyanarayana [(2006) 12 SCC 28] that a charge memo or show-cause notice cannot be challenged before the completion of enquiry and the proceedings cannot be interdicted till it reaches its logical conclusion. It would be useful here to extract the relevant passages from the said decision which read as follows:-

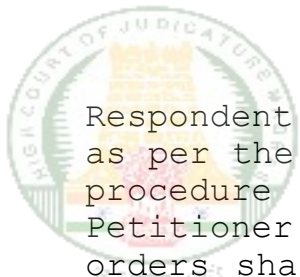
"13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide **Executive Engineer, Bihar State Housing Board -vs- Ramdesh Kumar Singh and others** [JT 1995 (8) SC 331], **Special Director and another -vs- Mohd. Ghulam Ghouse and another** (AIR 2004 SC 1467), **Ulagappa and others -vs- Divisional Commissioner, Mysore and others** [(2001) 10 SCC 639], **State of U.P. -vs- Brahm Datt Sharma and another** (AIR 1987 SC 943) etc.

14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. 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, that the said party can be said to have any grievance.

15. 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."

In view of the aforesaid legal position, the Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to raise all contentions in the explanation to be submitted to the First Respondent and work out his remedies in the event of adverse decision before the proper forum in accordance with law.

3. It is further agreed that the Petitioner shall submit his explanation with the supporting materials, if any, by 31.07.2021 and no extension of time shall be granted for the same. If the First



Respondent is not able to accept the said explanation, the enquiry as per the Service Rules shall be conducted following the prescribed procedure affording full opportunity of personal hearing to the Petitioner in consonance with the natural justice and reasoned orders shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken shall be communicated to the Petitioner under written acknowledgement and report of compliance in that regard shall be filed by 30.09.2021 before the Registrar (Judicial) of this Court. It is needless to clarify here that no view is expressed by this Court on the correctness or otherwise on the merits of the controversy involved.

4. In fine, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SRM

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 Principal Secretary/Commissioner of Treasuries and Accounts,
Amma Complex, 3rd Floor,
Integrated Office Building for Finance Department,
No.571, Anna Salai,
Nandanam,
Chennai - 600 035.
- 2.The Assistant Treasury Officer,
Sub-Treasury,
Bhavani,
Erode District.



3.K.Saravanan,
S/o.V.Kathiresan,
No.1/200-1, Meenatchi Amman Nagar,
North Second Street,
Surya Nagar Extension,
K- Pudur, Madurai.

Copy to
The Registrar (Judicial),
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.SPLGP (SR-19276[F] dated 14/06/2021)

W.P. (MD) No.10045 of 2021
and
W.M.P. (MD) No.7757 of 2021
11.06.2021

SSS (CO)
TR(30.06.2021) 4P 6C