



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.11.2021**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P. (MD)No.8582 of 2018

and

W.M.P. (MD)No.8067 of 2018

WEB COPY

S.Jeyakumar

...Petitioner

/Vs./

1.The District Collector,
Theni District,
Theni.

2.The District Revenue Officer,
Theni District,
Theni.

...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the Respondents to defer the departmental proceedings in pursuance to the Charge Memo in Na.Ka.No.20341/2013/A5 dated 09.07.2013 on the file of the Respondent No.2 until the conclusion of the criminal case in C.C.No.38/2014 on the file of the Additional Mahila Court, Madurai, Madurai District.

For Petitioner : Mr.S.Louis

For Respondents : Mr.A.K.Manikkam

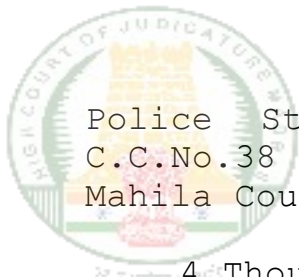
Special Government Pleader

ORDER

Heard Mr.S.Louis, learned counsel for the petitioner and Mr.A.K.Manikkam, learned Special Government Pleader for the respondents.

2.The short point that arises is as to whether the disciplinary proceedings that have been initiated as against the petitioner, should await conclusion of the criminal case pending before the Additional Mahila Court, Madurai.

3.The brief facts are that the petitioner was serving as Special Revenue Inspector in the office of the Special Tahsildar (Land Acquisition) Adi Dravidar Welfare Section, Theni. A criminal case came to be registered by the wife of the petitioner in C.C.No.24 of 2013 dated 19.06.2013 on the file of All Women



Police Station, Thallakulam, Madurai and charge sheeted in C.C.No.38 of 2014, pending presently on the file of the Additional Mahila Court, Madurai.

4. Though the petitioner was initially placed under suspension, he challenged the order of suspension in W.P.(MD)No.15144 of 2013 and obtained an order of interim stay on 13.09.2013. The writ petition came to be disposed on 04.06.2019 to the effect that pending writ petition, the order of suspension had been revoked and thus, nothing further was required to be done in that case. The petitioner thus continues in service, at present.

5. While this is so, a Charge memo dated 09.07.2013 in terms of Section 17(b) of the Tamil Nadu State and Subordinate Service Rules, 1955, (Rules) was issued to the petitioner, where three out of the four charges levelled relate to the same subject matter as in the criminal case. To reiterate, the charges substantially relate to, and revolve around the petitioner's alleged illicit liaison with a woman, despite him being married to another.

6. Though normally, the settled position in law is to the effect that disciplinary proceedings and criminal proceedings could continue parallelly without awaiting the result of the other, and without one standing as an impediment in the conduct of the other, a perusal of the charge sheet in criminal proceedings and charge memo in the disciplinary proceedings would show close identity of the allegations/charges levelled as against the petitioner.

7. Since the criminal proceedings are stated to be at the stage of examination of witnesses and are thus imminent for conclusion shortly, I would deem it appropriate that the disciplinary proceedings await conclusion of the criminal matter, in order that there is uniformity in approach and appreciation of the issues in both matters.

8. In this context, I may refer to a Judgment of the Hon'ble Supreme Court in the case of *State Bank of India vs. Neelam Nag* (2016 (9) SCC 491) circulated by learned Special Government Pleader, which also deals with the similar issue as before me now, as to whether the simultaneous conduct of disciplinary and criminal proceedings is the norm to be applied in all matters.

9. At para 21, the Hon'ble Bench stays the disciplinary proceedings till closure of recording of evidence of the prosecution witnesses cited in the criminal trial fixing a time for completion of the matter before the criminal Court. Para 21 of the Judgment reads thus:

21. Accordingly, we exercise discretion in



favour of the respondent of staying the ongoing disciplinary proceedings until the closure of recording of evidence of prosecution witnesses cited in the criminal trial, as directed by the Division Bench of the High Court and do not consider it fit to vacate that arrangement straightway. Instead, in our opinion, interests of justice would be sufficiently served by directing the criminal case pending against the respondent to be decided expeditiously but not later than one year from the date of this order. The Trial Court shall take effective steps to ensure that the witnesses are served, appear and are examined on day-to-day basis. In case any adjournment becomes inevitable, it should not be for more than a fortnight when necessary."

10. In the present matter as well, since the criminal proceedings are stated to be imminent for closure, I direct the Additional Mahila Court, Madurai, to complete the pending proceedings in C.C.No.38/2014 within a period of three months from 1st of December, 2021 to which date, and the hearing stands advanced from 17.12.2021 when it is stated to be listed next, and conclude proceedings on or before 28.02.2022. The observations and directions of the Hon'ble Bench in the case of *Neelam Nag* (supra) at para 21 would apply on all fours to the present matter pending before the criminal Court as well.

11. The protection granted under this order shall enure to the petitioner only till 28.02.2022 when the disciplinary proceedings shall stand revived for continuation by the authorities.

12. Paragraph Nos.22 and 23 of the Judgment are extracted below in the interests of completion:

"22. We also direct that the respondent shall extend full cooperation to the Trial Court for an early disposal of the trial, which includes cooperation by the Advocate appointed by her.

23. If the trial is not completed within one year from the date of this order, despite the steps which the Trial Court has been directed to take the disciplinary proceedings against the respondent shall be resumed by the enquiry officer concerned. The protection given to the respondent of keeping the disciplinary proceedings in abeyance shall then stand vacated



forthwith upon expiring of the period of one year from the date of this order."

13. In light of the discussion above, the mandamus, as sought for, stands achieved and this Writ Petition is disposed in the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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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 District Collector,
Theni District,
Theni.

2. The District Revenue Officer,
Theni District,
Theni.

3. The Additional Mahila Court, Madurai.

+1 CC to M/s.S. LOUIS, Advocate (SR-34602[F] dated 16/11/2021)
+1 CC to M/s.SPL GP (SR-34564[F] dated 16/11/2021)

W.P. (MD) No. 8582 of 2018
15.11.2021

PS (CO)

SB(30.11.2021) 4P 6C