



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No. 3030 of 2018
and
W.M.P.No.6452 of 2021

P.Gopinathan

Vs.

...Petitioner

1. The Secretary,
Commercial Taxes and Registration Department,
Secretariat, Fort St.George,
Chennai-600009.
2. The Joint Commissioner,
Commercial Taxes Department,
Salem-7.
3. Mr.S.Mahendran,
Assistant Commissioner,
Commercial Taxes Department,
Omalur,
Salem.
4. M.C.M & Co.,
Rep. by Mr.R.Kumar,
Mettupalayanur, Karungallur Po,
Mettur Taluk,
Salem District-636 303.

5. Thangam

... Respondents

Prayer: Writ Petition filed under Section 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents 1 and 2 to take appropriate departmental disciplinary proceedings as well as criminal action against the 3rd respondent based on petitioner's representations dated 05.12.2017, 11.12.2017 and 04.01.2018 for committing dereliction of duty by colluding with the respondents 4 and 5 with an intention to save them from punishment and causing loss to the exchequer.



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For Petitioner : Mr.P.Gopinathan
Party in person

For R1 to R3 : Mr.R.Harsha Raj
Additional Government Pleader

For R4 and R5 : Mr.M.R.Jothimanian

ORDER

The prayer sought for herein is for a writ of mandamus, to direct the respondents 1 and 2 to take appropriate departmental disciplinary proceedings as well as criminal action against the 3rd respondent based on petitioner's representations dated 05.12.2017, 11.12.2017 and 04.01.2018 for committing dereliction of duty by colluding with the respondents 4 and 5 with an intention to save them from punishment and causing loss to the exchequer.

2. The petitioner was working as a Block Development Officer against whom, on the alleged complaint of the third respondent to the Director of Vigilance and Anti-Corruption, a trap case was set up and in that trap case the petitioner was caught red-handed. As against him, criminal charges have been framed and they are pending trial before the concerned Criminal Court.

3. In this regard, the petitioner has given a complaint to the first and second respondents against the third respondent to enquire about his complaint, where he made an allegation against the 3rd respondent that he issued some bogus Form-S form through the 4th and 5th respondents, who are the contractors under the petitioner and since those Form-S was issued by the third respondent, which according to the petitioner were bogus, that were rejected by the petitioner, so got annoyance over the said rejection made by the petitioner, the third respondent triggered the DVAC to set up a trap against the petitioner. Therefore, as a counter blast the petitioner has given a complaint against the third respondent to enquire and in order to give direction to the first and second respondents to enquire the complaint of the petitioner made against the third respondent, this writ petition has been filed.

4. Heard Mr.P.Gopinathan, petitioner who appeared as party-inperson, Mr.C.Harsha Raj, learned Additional Government Pleader appearing for the respondents 1 to 3 and M.R.Jothimanian, learned counsel appearing for the respondents 4 and 5.



5. Whether the complaint was given by the third respondent or anyone else, based on which, DVAC set up a trap, where the petitioner caught red handed, pursuant to which, a criminal case is pending trial, it is the duty of the petitioner to face the criminal trial to prove his innocence without which, as a counter blast, he cannot give a complaint against the third respondent, because the third respondent only triggered the DVAC to set up the trap and therefore, this kind of personal rival dispute cannot be resolved by this Court, for which, extraordinary jurisdiction of this Court under Article 226 of the Constitution of India cannot be invoked to seek for a writ of mandamus as sought for in this Writ petition. Hence, this Court feels that this writ petition deserves to be dismissed and accordingly, it is dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Commercial Taxes and Registration Department,
Secretariat, Fort St.George,
Chennai-600009.
2. The Joint Commissioner,
Commercial Taxes Department,
Salem-7.

+1cc to the Special Government Pleader (Taxes), S.R.No.37263

W.P.No.3030 of 2018

SSD(CO)
UMA(06/07/2022)