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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. No.14286 of 2022

and

W.M.P.No. 13520 of 2022

A. Sardar

...Petitioner

Vs.

1. The Tribunal for Disciplinary Proceedings,
Represented by its Commissioner,
5/1842-A, Trichy Road,
Market Committee Complex,
Ramanathapuram,
Coimbatore - 641 045.

2. The Deputy Superintendent,
Vigilance and Anti-Corruption Department,
Udhagamandalam,
Crime No. 3 of 2016,
Udhagamandalam District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 18.05.2022 made in TDP Case No. 5 of 2018 passed by the first respondent, quash the same and consequently direct the first respondent to recall PW-1, PW2, PW6, PW7 and PW8 in TDP Case No. 5 of 2018 for cross-examination.

For Petitioner : Mr. N. Manoharan
For Respondents : Mr. E. Veda Bagath Singh,
Special Government Pleader

ORDER

The writ petition is filed for the issuance of a writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 18.05.2022 made in TDP Case No. 5 of 2018 passed by the first respondent, quash the same and consequently direct the first respondent to recall PW-1, PW-2, PW-6, PW-7 and PW-8 in TDP Case No. 5 of 2018 for cross-examination.



2. According to the petitioner, he was working as Commissioner at Udhagamandalam Municipality. While so, based on a complaint made by one M. Chitra, alleging that he had demanded illegal gratification on 04.02.2016, and 02.03.2016 to issue an order of appointment, the second respondent registered a case in Crime No. 3 of 2016. Subsequently, he was transferred to Kovilpatti Municipality and again to Kancheepuram Municipality. Later, he was placed under suspension on 04.12.2018. Thereafter, the first respondent issued a Charge Memo dated 17.12.2018 under Rule 8(a) of the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules, 1955, alleging that the petitioner had demanded bribe from the aforesaid Chitra for issuing posting orders.

3. According to the petitioner, he entered appearance before the Tribunal and was arrayed as A1 and one K.S. Parvathi, formerly Municipal Manager, was arrayed as A2 in the aforesaid proceedings, during the course of the enquiry proceedings, PW-1 was examined on 16.08.2021 and she was cross-examined by the petitioner and PW-2 to PW-6 were examined on 23.08.2021. The petitioner had cross-examined PW-2 but he did not cross-examine PW-3 to PW-7, whereas, the petitioner accepted their cross examination by the Accused Officer No.2.

4. According the petitioner, the aforesaid enquiry proceedings was conducted and cross examination of witnesses have taken place during the COVID-19 situation. Thereafter, he could not avail the legal assistance by engaging an advocate to defend the case. Hence, he has filed the recall petition dated 26.04.2022 to recall PW-1, PW-2, PW-6, PW-7 and PW-8. The petitioner states that PW-1, PW-2 and PW-6 were cross-examined by him but no cross-examination was done in respect of PW-7 and PW-8. Therefore, the said application have been filed and the same was dismissed on 18.05.2022. Challenging the aforesaid order, the petitioner has filed the instant writ petition before this court.

5. The learned counsel for the petitioner submitted that no prejudice will be caused to the respondents, if any opportunity given to the petitioner for cross examination of PW-1, PW-2, PW-6, PW-7 and PW-8 and he also further states that during the aforesaid COVID-19 period, he was not in a position to effectively conduct the enquiry proceedings. Hence the above said order has to be set aside and appropriate orders may be passed by this court.

6. The learned Government Pleader appearing for the respondents, on instructions, submitted that the petitioner had participated in the said enquiry proceedings and the same has been admitted by the petitioner. If the petitioner had any



7. However, the petitioner has requested the court and given assurance that he would not protract the proceedings inordinately and some particular date may be fixed for the cross examination of witnesses.

9. It is also informed to the Court that on 20.06.2022, the aforesaid enquiry is posted.

i). The respondents are directed to serve fresh summons on PW-1, PW-2, PW-6, PW-7 and PW-8 for appearing for the cross examination by the petitioner on 20.06.2022;

ii) If case of any inconvenience to the first respondent or to the witnesses, it is open to the respondents to grant further time for cross examination of the aforesaid witnesses;

iii) It is made clear that the said exercise shall be completed within a period of ten days from 20.06.2022;

iv) The petitioner, as per the undertaking given by him, shall co-operate for the said cross examination of the aforesaid witnesses before the first respondent;

v) If any, default on the part of the petitioner, it is open to the respondents to proceed in accordance with law.



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11. With the above directions, the impugned order is quashed and the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mrn

To

1. The Commissioner,
The Tribunal for Disciplinary Proceedings,
5/1842-A, Trichy Road,
Market Committee Complex,
Ramanathapuram,
Coimbatore - 641 045.
2. The Deputy Superintendent,
Vigilance and Anti-Corruption Department,
Udhagamandalam,
Crime No. 3 of 2016,
Udhagamandalam District.

+1cc to The Government Pleader, S.R.No.35559 [20/06/2022]

+1cc to Mr.N.Manokaran, Advocate, S.R.No.34743

W.P. No.14286 of 2022
and
W.M.P.No. 13520 of 2022

NRJK(CO)
KKV/15/06/2022