



W.P.No.17569 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17569 of 2018
and
W.M.P.No.20852 of 2018
and
W.M.P.No.3230 of 2020

Mr.T.Panneer Selvam

...Petitioner

Vs.

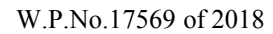
1.The Commandant, TSP, 14th Battalion,
New Dharapuram Road, Palani,
Dindugul District – 624 601.

2.The Enquiry Officer,
Office of the Commandant, TSP,
5th Battalion, Vaishnavi Nagar,
Avadi, Chennai – 600 109.

3.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004.

(R3 – *Suo-motu* impleaded as 3rd respondent
in W.P.No.17569 of 2018 dated 09.11.2022)

..Respondents





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2. The petitioner states that the 2nd respondent is proceeding with the departmental disciplinary proceedings without furnishing the crucial documents to the writ petitioner. The allegation against the writ petitioner is that while he was working as Inspector of Police in TSP, 15th Battalion, Vellore District, one Constable D.Thirumurthy (PC 1810) lodged a complaint with Vigilance and Anti-Corruption Department as if the petitioner demanded a sum of Rs.2,000/- for sanctioning 10 days of Casual Leave. Two charges were framed against the writ petitioner, relating to demand of bribe from the Constables for sanctioning leave. Regarding the demand of bribe, a Criminal Case was registered against the writ petitioner under Section 7 of the Prevention of Corruption Act, 1988 and 13 (2) read with 13 (1) (D) of Prevention of Corruption Act, 1988.

3. The petitioner submitted a letter to the second respondent on 30.03.2018, seeking certain documents. The petitioner has further stated that the first respondent sent a letter to the second respondent on 24.03.2018, stating that the out registers are not available. The 2nd respondent in his letter dated 03.04.2018, has further stated that the documents sought for by the



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petitioner are not traceable. The Enquiry Officer issued notice to the writ petitioner to participate in the process of enquiry in vide letter dated 26.06.2018. Instead of participating in the enquiry proceedings, the petitioner has chosen to file the present writ petition, stating that the documents are to be produced and in the absence of those documents, he cannot participate in the enquiry proceedings.

4. The first respondent filed a counter statement, stating that while the writ petitioner was serving as Inspector of Police in 'A' Company of Tamilnadu Special Police XV Battalion, Sevoor, Vellore District, one D.Thirumoorthy, Naik-1810 preferred a complaint before the Additional Superintendent of Police, Vigilance & Anti-Corruption, Vellore unit against the petitioner on 27.06.2016 at about 12.00 hours, alleging that the petitioner had been demanding Rs.2000/- for sanctioning leave for 10 days from 20.06.2016 to 08.07.2016. The said complaint was forwarded to the Directorate of Vigilance & Anti-Corruption, Chennai, who had issued orders vide No.PE/110/2016/Pol/VI to conduct preliminary enquiry in this regard and the same was registered on 27.06.2016 at about 13.00 hours. During the



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course of enquiry, the conversation between the petitioner and the defacto complainant was recorded through audio recorder and the petitioner's demand for Rs.1,500/- (Reduced from Rs.2000/- to Rs.1500/-) for sanctioning of 10 days leave and the allegation of having obtained of Rs.500/- already from the complainant for Briyani were confirmed. As the prima facie of the allegation against the petitioner was established, a case in Cr.No.7/2016 Under Section 7 of Prevention of Corruption Act 1988 was registered by the Vigilance & Anti-Corruption, Vellore Unit on 28.06.2016 at 11.30 hours and a trap was organized on the same day at the Office of the Officer Commanding, A-Company, Tamilnadu Special Police XV Battalion, Sevoor. The petitioner reiterated his earlier demand to the defacto complainant D.Thirumoorthy, Naik-1810 and accepted the bribe amount of Rs.2000/- from him. The petitioner was caught red-handed by the officials of Vigilance & Anti-Corruption. They conducted the phenolphthalein test on both hands of the petitioner and it proved positive. The petitioner produced the graft money of Rs.2000/- which had been kept under the pillow placed on the bed. The tainted currencies, the swab taken from pillow cover and bed sheet were also proven positive. The petitioner was arrested on the same day at about 17.15



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hours and remanded to judicial custody and was lodged at Central Prison, Vellore till 12.07.2016

5. Sequel to the trap and arrest of the petitioner in Cr.No.7/2016 Under Section 7 of Prevention of Corruption Act 1988 of Vigilance & Anti-Corruption, Vellore Unit, the petitioner was placed under suspension by the Deputy Inspector General of Police, Armed Police, Chennai vide Range Order No.150/2016 in Rc.No.C1/11945/2016 Dated 30.06.2016. Subsequently, the petitioner filed W.P.No.6242/2017 before the Hon'ble High Court, Chennai with a prayer to quash the suspension order and to reinstate him into service. The Hon'ble High Court allowed the Writ Petition with direction to the third respondent viz Deputy Inspector General of Police, Armed Police, Chennai to revoke the suspension order and post him in any non sensitive place. It was also made clear in the order that this case cannot be quoted as a precedent since the order has been passed taking into account the marriage of the petitioner's daughter. As per the directions of the Hon'ble High Court, the petitioner was revoked from suspension without prejudice to the criminal case in Vellore V&AC Cr.No.07/2016 Under Section 7 and



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13(2) read with 13(1)(d) of Prevention of Corruption Act 1988 pending against him by the Deputy Inspector General of Police, Armed Police, Chennai vide Range Order No.105/2017 in Rc.No.C1/11945/2016 dated 12.05.2017. He was transferred and posted to Tamilnadu Special Police XIV Battalion, Palani by the Additional Director General of Police, Armed Police, Chennai vide Range Order No.111/2017 in Rc.No. C1/11945/2016 Dated. 19.05.2017. He has reported in Tamilnadu Special Police XIV Battalion, Palani on 22.05.2017 and since then he has been serving in Tamilnadu Special Police XIV Battalion, Palani.

6. The departmental disciplinary proceedings was initiated against the petitioner Under Rule 3(b) of TNPSS(D&A) Rules 1955 in PR.No.37/2017 of TSP XV Battalion, Sevoor and the approved charge memo was served to the petitioner on 23.10.2017. Tr.S.Rajasekaran, Commandant, TSP V Battalion, Avadi was nominated as the Enquiry Officer vide the proceedings in Rc.No.C1/11945/2016/PR.37/2017 Under Rule 3(b) dated 09.11.2017 of the Inspector General of Police (i/c) the Deputy Inspector General of Police, Armed Police, Chennai.

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7. The respondents have stated that before commencing oral enquiry, the petitioner was provided with all the material documents mentioned in Annexure-III of the charge memo, which are relied on by the Enquiry Officer. While the oral enquiry was in progress, the petitioner requested to provide certain additional documents. The available documents were furnished to the petitioner on 30.03.2018 and 14.04.2018 respectively. Certain documents sought for by the petitioner were not traceable and those records are no way connected with the departmental disciplinary proceedings initiated against the writ petitioner. The facts were intimated to the writ petitioner vide memorandum dated 19.06.2018 and he was further informed to attend the enquiry and defend his case. Under those circumstances, the petitioner filed the present writ petition.

8. Considering the arguments, the charges framed against the writ petitioner are demand and acceptance of bribe. A Criminal Case under the Prevention of Corruption Act was registered against the writ petitioner. There is no bar for the authorities to continue the departmental disciplinary



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proceedings as the materials are very much available to proceed with the charge memorandum. Accordingly, they have proceeded and furnished all the required documents relied on by the prosecution and more specifically, the documents listed in the charge memorandum were served on the writ petitioner, enabling him to defend his case. Beyond the list of documents relied upon in the charge memorandum, the petitioner made a request to furnish additional documents and from the list of additional documents, the authorities have furnished the available documents and other documents sought for by the petitioner were not at all connected with the departmental disciplinary proceedings and the said fact was communicated to the writ petitioner. The petitioner was asked to participate in the process of enquiry.

9. No doubt, the delinquent official is entitled to peruse the documents relied on by the prosecution. In the present case, all the documents listed in the charge memorandum had already been furnished to the writ petitioner. That apart, additional documents available in the Department were also furnished. Thus, the petitioner intended to prolong and protract the disciplinary proceedings with an idea to escape from the clutches of the



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disciplinary proceedings. It is a growing practice, whenever a charge memo has been issued by the competent Disciplinary Authority, the delinquent officials are going on submitting letter seeking documents, which all are not relevant. In the event of not furnishing the documents, they file a writ petition and get an interim order or keep the writ petition pending and prolong the disciplinary proceedings with an idea to escape from the clutches of the proceedings. Such a practice at no circumstances be encouraged.

10. In the present case, the charges against the writ petitioner are serious and relating to corruption. There is no infirmity in respect of the charges framed against the writ petitioner. The Enquiry Officer was appointed, who in turn, commenced the enquiry. The documents relied on by the prosecution were supplied to the petitioner, enabling him to defend his case. While so, the petitioner has intended to prolong the issue, which cannot be appreciated. The petitioner has to participate in the process of enquiry and defend his case in the manner contemplated and by availing the opportunities to be provided by the competent authorities.



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11. In the present case, this Court is of an opinion that, an independent Enquiry Officer is to be appointed by the Director General of Police to conduct an enquiry, in view of the fact that the petitioner, who is an Inspector of Police in Tamil Nadu Special Police, is enjoying a better position in the Battalion. There is a possibility of threatening the complainant, who is a Policeman working in the Department. Further, there is a possibility of tampering the evidence or diverting the enquiry proceedings by misusing his position as an Inspector of Police, since the petitioner has been reinstated pursuant to the order of this Court, and holding the post of Inspector of Police. In order to conduct free and fair enquiry proceedings with reference to the corruption charges framed against the writ petitioner, the Director General of Police has to appoint an Enquiry Officer, enabling him conduct an enquiry as expeditiously as possible.

12. For the purpose of appointing an Enquiry Officer to proceed with the enquiry, the Director General of Police, Dr.Radhakrishnan Salai, Mylapore, Chennai - 600 004 has been *suo-motu* impleaded as 3rd respondent in the present writ petition. The learned Government Advocate



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takes notice for the 3rd respondent and contended that the 3rd respondent will appoint an independent and competent enquiry officer.

13. In view of the facts and circumstances, the following orders are passed:

(1) The relief as such sought for in the present writ petition stands rejected.

(2) The third respondent / Director General of Police, Dr.Radhakrishnan Salai, Mylapore, Chennai - 600 004 is directed to appoint an Enquiry Officer within a period of two weeks from the date of receipt of a copy of this order, who in turn, shall conduct an enquiry by following the procedures as contemplated under the Discipline and Appeal Rules as expeditiously as possible and by avoiding unnecessary adjournments.

(3) The writ petitioner is directed to co-operate for the early disposal of the departmental disciplinary proceedings and in the event of non co-operation on the part of the writ petitioner, the same shall be recorded in the minutes and in such circumstances, the petitioner is



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not entitled to get any relief on the ground of delay in completing the departmental disciplinary proceedings.

(4) The respondents are directed to dispose of the disciplinary proceedings as expeditiously as possible.

14. With the above directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes

Speaking order: Yes

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Note: Registry is directed to carryout the necessary amendments.

To

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2. The Enquiry Officer,
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S.M.SUBRAMANIAM, J.

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