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W.P.No.30629 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2022

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.30629 of 2022
and WMP No.30070 of 2022

M.Arivukanmani

... Petitioner

Vs

1.The Commissioner,
Greater Chennai Corporation,
Ripon Buildings, Chennai-600 003.

2. The Enquiry Officer,
District Revenue Officer/Zonal Officer,
Zone-9, Greater Chennai Corporation,
Nungambakkam, Chennai-600 034.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the first respondent impugned order dated 18.12.2020 in G.D.C.No.E13/14075/2020 and the consequential proceedings and quash the same.

For petitioner	...	Dr.C.Ravichandran
For Respondents	...	Mr.S.Gopinathan Standing Counsel

ORDER

This writ petition has been filed challenging the Charge Memo dated

<https://www.mhc.tn.gov.in/judis>
18.12.2020.



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2. The petitioner is an Assistant Engineer in the Greater Chennai Corporation, against whom, the impugned charge memo has been issued. The charge memo is issued on the ground that the petitioner has failed to remove the encroachments during the period between June 2014 and September 2016.

3. Admittedly, pursuant to the issuance of the charge memo dated 18.12.2020, enquiry proceedings have commenced. However, learned counsel for the petitioner would submit that the enquiry proceedings have commenced only on 15.04.2022 and till date, no witness has been examined. The petitioner also contends that the enquiry has not been conducted in a fair manner. Further, learned counsel for the petitioner submits that a request was made to the enquiry officer for furnishing copies of certain documents, but, the same was not given to the petitioner and a copy of his representation has also been filed as a document along with this writ petition. The petitioner has requested the enquiry officer to mark the documents, which are 11 in number, as exhibits in the enquiry proceedings. The petitioner has also sought permission to cross examine the witnesses.

4. The petitioner has also challenged the charge memo on the ground that it is vague and not specific.

5. Heard Dr.C.Ravichandran, learned counsel for the petitioner and



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Mr.S.Gopinathan, learned Standing Counsel accepts notice on behalf of the respondents. By consent of both the parties, the main writ petition has been taken up for final disposal.

6. The scope for interference by this Court with regard to the charge memo is very limited. Only if the petitioner is able to satisfy this Court that the parameters laid down by various decisions of the Hon'ble Supreme Court for interference in charge memo is applicable to his case also, the question of entertaining this writ petition at this stage will not arise. Further, the charge memo is dated 18.12.2020. The petitioner has approached this Court in November 2022, after a lapse of almost two years. The incident happened between 2014 and 2016, for which, the impugned charge memo was issued to the petitioner. Since the petitioner has approached this Court belatedly, this Court cannot interfere with the impugned charge memo. Further, an enquiry officer has already been appointed which is also admitted by the petitioner. But the only submission made by the petitioner before this Court is that only now i.e., 15.06.2022, the petitioner has been called for enquiry even though the charge memo is dated 18.12.2020.

7. The petitioner's grievance in this writ petition is that enquiry is not being conducted in a fair manner and petitioner's request for furnishing copies of documents as well as permitting him for cross examining the witnesses have not



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been acceded to by the enquiry officer. The petitioner has already given a representation to the enquiry officer on 08.09.2022 requesting the enquiry officer to furnish copies of documents and permit him to cross examine the witnesses.

8. Necessarily, the enquiry officer will have to conduct enquiry in a fair and proper manner after affording a fair hearing to the petitioner. Since this Court is of the considered view that the impugned charge memo cannot be interfered at this stage in view of the aforesaid reasons, the only limited relief that can be granted to the petitioner is to direct the enquiry officer to conduct the enquiry in a fair and proper manner after affording a fair hearing to the petitioner and also by considering the petitioner's request, seeking for furnishing copies of documents as well as permitting him to cross examine the witnesses as per his request letter dated 08.09.2022 on merits and in accordance with law.

9. Since enquiry proceedings have already commenced, a direction will have to be issued to the enquiry officer to conclude the enquiry and submit a report within a time frame to be fixed by this Court.

10. For the foregoing reasons, this writ petition is disposed of by directing the enquiry officer to complete and conclude the enquiry proceedings and thereafter, submit a report within a period of three months from the date of receipt



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of a copy of this order after affording a fair hearing to the petitioner including considering the petitioner's representation dated 08.09.2022 seeking for furnishing copies of documents mentioned therein along with considering his request for permitting him to cross examine the witnesses on merits and in accordance with law. The petitioner shall also cooperate with the enquiry proceedings for completion of the enquiry proceedings within the stipulated time. No costs.

Consequently, connected miscellaneous petition is closed.

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Index: Yes/ No
Speaking Order/Non-speaking Order
sr

To

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District Revenue Officer/Zonal Officer,
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ABDUL QUDDHOSE ,J.,
SR

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