



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.51 of 2022
and W.M.P(MD) .No.41 of 2022

S.Logasundaranathan

... Petitioner

Vs.

1.The Principle Chief Conservator of Forest,
O/o. Principle Chief Conservator of Forest,
Panangal Maligai,
Saidapet, Chennai.

2.The Chief Conservator of Forest,
Conservator of Forest,
Tirunelveli Circle,
Tirunelveli.

3.The District Forest Officer
O/o. District Forest Officer,
Thoothukudi Division,
Thoothukudi.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records pertaining to the Impugned Order in Na.Ka.No.Ku/5559/2017 dated 03.12.2021 on the file of the Respondent No.3 and quash the same as illegal.

For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.M.Ramesh
Government Advocate

O R D E R

Notice issued under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules is under challenge in the present Writ Petition.

2. The petitioner is working as Forest Range Officer and on account of certain allegations, regarding the conduct of public auction of the Forest Department Properties, the Competent Authority issued a notice under Rule 17(a) of the Discipline and Appeal Rules.



3. The learned counsel appearing for the petitioner made a submission that the Authorities have pre-determined the issues and therefore, the petitioner may not get a fair decision from the Competent Authorities.

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4. A perusal of the order impugned dated 03.12.2021 reveals that all the details regarding the properties belong to the Forest Department are set out and the petitioner was asked to submit his explanation/objection within a period of 15 days from the date of receipt of a copy of the notice. The impugned notice issued under Rule 17(a) further states that the petitioner has not deposited the Government funds to the Government accounts and his explanation in that aspect is also not satisfactory. This Court is of the considered opinion that the writ petitions are filed, if the allegations are not set out in the notice. If the allegations are set out in detail, then also writ petitions are filed by stating that the Authorities have pre-determined the issues. Therefore, the Courts are cautious while dealing with such matters where ground of pre-determination on the part of the Authorities is raised. The procedures to be followed in respect of Rule 17(a) of the Discipline and Appeal Rules is that the Authorities Competent in respect of allegation is bound to issue a show cause notice.

5. The show cause notice must contain the details and particulars enabling the delinquent employee to submit his explanation to the definite allegations. In the absence of any particulars regarding the allegations, the delinquent employee may not be in a position to submit his objection or explanation. Therefore, the details and particulars furnished in the show cause notice cannot be a ground to file a writ petition. Even if the Authorities adopted certain language unless there is a personal motive which is established, the contention in the notice need not be otherwise doubted.

6. Each and every word cannot be interpreted by the delinquent employee for the purpose of entertaining a writ petition and to establish that the Authorities have pre-determined the issues. Only if an allegation of malafide is established or a particular motive is established, then alone the Courts would be in a position to entertain the writ petitions and mere language in such a show cause notice would not be a cause for filing a writ petition. The petitioner has to submit his explanation/objection in respect of the allegations set out by the Competent Authorities in 17(a) notice. The impugned notice provides all the details regarding the allegations, more specifically, the details of the properties belong to the Forest Department. Under these circumstances, the petitioner is at liberty to submit his explanation/objection if any, within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the respondents shall consider the materials

<https://hcservices.eportal.gov.in/hcservices> record including the explanations if any submitted,



take a decision and pass appropriate orders on merits and in accordance with law as expeditiously as possible.

7. Accordingly, the Writ Petition stands dismissed. No costs. Connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb

To

1.The Principle Chief Conservator of Forest,
O/o. Principle Chief Conservator of Forest,
Panangal Maligai,
Saidapet, Chennai.

2.The Chief Conservator of Forest,
Conservator of Forest,
Tirunelveli Circle,
Tirunelveli.

3.The District Forest Officer
O/o. District Forest Officer,
Thoothukudi Division,
Thoothukudi.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-10483[F]
dated 08/03/2022)

+1 CC to M/s.SPL GP (SR-10623[F] dated 08/03/2022)

W.P.(MD) No.51 of 2022

07.03.2022

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