



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.01.2022**

CORAM:

THE HONOURABLE MR.JUSTICE **B. PUGALENDHI**

W.P.[MD].No.155 of 2022

WEB COPY

M.Rathinam

... Petitioner

Vs.

1.The Director of Rural Development and Panchayat Raj,
Panagal Building,
Saidapet,
Chennai-600 015.

2.The District Collector,
Karur District,
Karur.

...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the second respondent to conclude the disciplinary proceedings which was initiated by the second respondent in Na.Ka.Baval/140/2017-2 dated 27.12.2017 against the petitioner expeditiously.

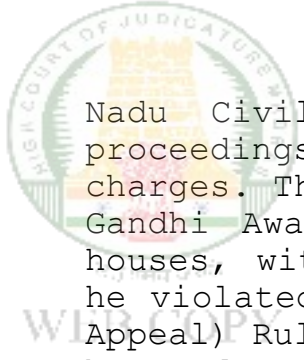
For Petitioner : Mr.G.R.Satish

For Respondents : Mr.V.Nirmal Kumar
Government Advocate

ORDER

This Writ Petition has been filed seeking for a direction to the second respondent to conclude the disciplinary proceedings initiated against the petitioner.

2. Mr.G.R.Satish, learned counsel appearing for the petitioner submits that at the instigation of the Former Union Committee member, a criminal case has been registered against the petitioner and others by the Inspector of Police, Vigilance and Anti-Corruption, Trichy District in Crime No.01 of 2017 for the offences under Sections 120(b), 167, 409, 465, 471 and 477 A of IPC, 13(2) r/w 13(1)(c) and 13(1)(d) of the Prevention of Corruption Act, 1988. Investigation in Crime No.01 of 2017 is still pending and based on the criminal case registered as against the petitioner, the second respondent has issued a charge memo under Rule 17(b) of the Tamil



Nadu Civil Servants (Discipline and Appeal) Rules, 1973 vide proceedings in Na.Ka.No.Baval/140/2017-2 dated 27.12.2017 with two charges. The first charge is that he allotted funds under the Indira Gandhi Awas Yojana Scheme to some beneficiaries for constructing houses, without following the procedure and the second one is that he violated Rule 20(1) of Tamil Nadu Civil Servants (Discipline and Appeal) Rules, 1973. Pursuant to the charge memo, the petitioner has been placed under suspension on the date of his superannuation on 31.05.2018. He further submits that the criminal case has been registered in the year 2017, however, charge sheet has not been filed so far and the department proceedings have not been commenced.

3. Mr.V.Nirmal Kumar, learned Government Advocate, who takes notice for the respondent, raises certain objections that there are four delinquents in this case and one of the delinquents has filed a writ petition in W.P.(MD).No.7770 of 2019. This Court has also directed the Department to proceed with the departmental proceedings and conclude the same within a period of three months. However, the Department has preferred an appeal in W.A.(MD).No.1474 of 2021 and the same is pending.

4. This Court paid its anxious consideration to the rival submissions made.

5. It appears that the criminal case was registered four years back, however, the Inspector of Police, Vigilance and Anti-Corruption, has not filed final report in Crime No.01 of 2017. By referring the criminal case, the second respondent has issued a charge memo. But, the departmental proceedings have not been commenced so far. Pendency of criminal case is not a bar for the Department to proceed with the Departmental proceedings. The Hon'ble Supreme Court of India, in the case of **STATE BANK OF INDIA AND OTHERS vs. NEELAM NAG reported in 2016 11 ADJ(NOC) 22**, has held that "there is no legal bar for conduct departmental proceedings and criminal trial simultaneously" and the relevant portion of the judgment is extracted hereunder:-

"8. We have heard the learned counsel for the parties at some length. The only question that arises for consideration, is no more res-integra. It is well-settled that there is no legal bar to the conduct of the disciplinary proceedings and criminal trial simultaneously. However, no straightjacket formula can be spelt out and the Court has to keep in mind the broad approach to be adopted in such matters on case to case basis. The contour of the approach to be adopted by the Court has been delineated in series of decisions. This Court in Karnataka SRTC vs. M.G.Vittal Rao[2] has summed up the same in the following words:

"(i) There is no legal bar for both the proceedings to go on simultaneously.



(ii) The only valid ground for claiming that the disciplinary proceedings may be stated would be to ensure that the defence of the employee in the criminal case may not be prejudiced. But even such grounds would be available only in cases involving complex questions of facts or law.

(iii) Such defence ought not to be permitted to unnecessarily delay the departmental proceedings. The interest of the delinquent officer as well as the employer clearly lies in a prompt conclusion of the disciplinary proceedings.

(iv) Departmental proceedings can go on simultaneously to the criminal trial, except where both the proceedings are based on the same set of facts and the evidence in both the proceedings is common." (emphasis supplied)".

6. The petitioner attained superannuation on 31.05.2018. Since the charge memo has been issued against the petitioner, he was not allowed to retire and he has been placed under suspension. Further, in the case on hand, neither Prosecuting Agency nor Department proceeded with their proceedings. Therefore, this Court directs the second respondent to conduct departmental proceedings separately without awaiting for the outcome of enquiry of the Inspector of Police, Vigilance and Anti-Corruption and conclude the same within a period of four months from the date of receipt of a copy of this order. If the Department wants to rely on the documents, the certified Xerox copies of those documents will have to be collected from the Inspector of Police, Vigilance and Anti-Corruption, Trichy.

7. Accordingly, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (AD I)

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/ /2022

Sub Assistant Registrar(CS)

ssb

To

1.The Director of Rural Development and Panchayat Raj,
Panagal Building,
Saidapet,
Chennai-600 015.



2.The District Collector,
Karur District,
Karur.

+1 CC to M/s.G.R.SATISH, Advocate (SR-547[F] dated 06/01/2022)

+1 CC to M/s.SPL.GP (SR-765[F] dated 07/01/2022)

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MGJ(04.02.2022) 4P 5C