



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.2878 of 2021

and

W.M.P (MD) .No.2344 of 2021

M.V.Raja

... Petitioner

Vs.

1. The Joint Registrar of Co-operative Societies,
Madurai Region,
Madurai District.

2.The Deputy Registrar of Co-operative Societies
(Public Distribution System),
Thirumangalam,
Madurai District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to provide all the documents listed out in Annexure-III of the charge memo in Na.Ka.No.624/2019/Pa.thou dated 27.09.2019.

For Petitioner : Mr.S.Kumar

For Respondents : Mr.M.Ramesh
Government Advocate

O R D E R

The relief sought for in the present writ petition is to direct the respondents to provide all the documents listed out in Annexure-III of the charge memo dated 27.09.2019.

2. The learned counsel appearing for the petitioner vehemently argued by stating that the petitioner is entitled to get all the documents in order to defend his case in the departmental disciplinary proceedings initiated against him in charge memo dated 27.09.2019. The petitioner is working as Co-operative Sub-Registrar and on account of certain allegation, the departmental disciplinary proceedings are initiated and the charge memorandum was issued.



3. The grievance of the writ petitioner is that he has submitted several representations to furnish the documents and the Competent Authorities have not furnished the documents. Therefore, the petitioner is constrained to move the present Writ Petition.

4. The request of the delinquent officials to furnish all the official documents at the charge memo stage is impermissible. The charges are only allegations which would not provide a cause for moving the present Writ Petition. Mere allegation cannot be a ground and on receipt of charge memorandum, the delinquent official has to submit his explanation/defence denying or accepting the allegations/charges. The Authorities Competent if proceeded with the enquiry proceedings, the petitioner is entitled to seek the documents during the course of enquiry to defend his case in the manner known to law. With the available documents and informations, the delinquent officer may submit his explanation denying or accepting the charges if any enquiry is ordered. Thereafter, all the documents relied on by the Competent Authorities for establishing the charges must be furnished and if it is a confidential document, the delinquent official may be permitted to peruse the documents in the presence of the Enquiry Officer. Such decisions are to be taken only during the course of enquiry.

5. There is a growing trend of filing a writ petition after writ petition at every stage of disciplinary proceedings. Such writ petitions are filed with an idea to prolong and protract the disciplinary proceedings and such conduct of the delinquent officials/Government employees at no circumstances be encouraged by the High Court but to be deprecated. Without even following the procedures, they are going on filing the writ petition at every stage and they make an attempt to stall the proceedings so that the allegations itself will be diluted. There is a possibility of escaping from the clutches of the disciplinary proceedings.

6. The Competent Authority, in the event of admitting the writ petition by the High Court, is immediately expected to file a counter and as per the Rules, the counter itself is to be filed within a period of 90 days from the date of receipt of a copy of the notice from the High Court. Further, the Authorities are also expected to be prudent and vigilant in such matters where unnecessarily litigations are filed by the delinquent officials with an idea to prolong and protract the disciplinary proceedings.

7. In the present case, only the grievance set out by the writ petitioner is that the documents are not furnished. However, it is to be furnished during the course of enquiry or the petitioner may be allowed to peruse the documents in the presence of the Enquiry Officer, if it is a confidential document or otherwise as the case may be.



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8. With this clarification, the Writ Petition stands disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar(CS)

To

1. The Joint Registrar of Co-operative Societies,
Madurai Region,
Madurai District.

2.The Deputy Registrar of Co-operative Societies
(Public Distribution System),
Thirumangalam,
Madurai District.

+1 CC to M/s.SPL.GP (SR-10992[F] dated 09/03/2022)

W.P. (MD) No.2878 of 2021
08.03.2022
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