



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.03.2022**

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.15357 of 2021

and

W.M.P.(MD) Nos.12258 & 12259 of 2021

B.Renuga

... Petitioner

-vs-

- 1.The Chief Educational Officer,
Thirucharapalli District.
- 2.The District Educational Officer,
Thirucharapalli.
- 3.The Headmistress,
Government Girls Hr.Sec.School,
Town Hall, Trichy-2.
- 4.R.V.Chari

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 1st respondent order made in Na.Ka.No.4580/E2/2020 dated 10.08.2021 and quash the same.

For Petitioner : Mr.B.Jameel Arasu

For RR1 to 3 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

For R4 : Ms.AL.Gandhimathi

O R D E R

The Charge Memo dated 10.08.2021 is under challenge in the present writ petition.

2.The case of the petitioner is that she was appointed as a Music Teacher in Vellore Government Higher Secondary School and thereafter, was transferred to Papanasam Girls Higher Secondary



School. A charge memo was issued to the writ petitioner with certain serious allegations stating that the petitioner is a partner of R.S.Building Promoters, Trichy. Out of four partners in the Building Promoters Company, the petitioner is also one of the partners. The second charge against the petitioner is that from one Mr.R.V.Chari, who was suffering from heart diseases, the petitioner received a sum of Rs.30,00,000/- and cheated him. Therefore, the respondents framed charges that the petitioner was functioning as a partner in the Building Promoters and further, involved in the allegation of cheating of Rs.30,00,000/- from one Mr.R.V.Chari.

3.The learned counsel for the petitioner made a submission that the petitioner was not aware of the fact regarding her partnership in the Building Promoters business and the promoter business is being run by her husband. The learned counsel for the petitioner further states that the Building Promoters business has become defunct.

4.The learned Additional Government Pleader objected the said contention by stating that even the Certificate of Registration enclosed by the petitioner in her typed set of papers at page 2 is self-evident that the petitioner is one of the partners out of four partners, as her photograph signed by her is available in the Certificate of Registration issued by the competent authority. The respondents conducted enquiry and the petitioner participated in the enquiry. During the enquiry, opportunity was given and the authorities verified the documents with reference to the allegations raised against the petitioner. At that stage, the present writ petition is filed.

5.Question arises whether a charge memo can be questioned, when it is admitted that the enquiry proceedings had already commenced and as per the learned Additional Government Pleader, it is ended.

6.The factual grounds raised by the petitioner cannot be considered by this Court, as it require adjudication of documents and evidences, which was already done by the Enquiry Officer. The mere innocence as claimed by the petitioner cannot be accepted. When the Certificate of Registration establishes that the petitioner has signed the Partnership Deed, then the ignorance cannot be a ground to quash the charge memo more so in respect of such allegations or as a matter of fact, mere ignorance of fact or law, is not a ground to quash the charge memo itself. Though the complaint is made belatedly after eight years, the allegation is that the petitioner is one of the partners in a Building Promoter and therefore, the delay cannot be in support of the petitioner. When the allegation of partnership continues, it is a continuing cause and furthermore, even such complaints are received after some delay, the authorities are bound to verify that such allegations are established when the person was working in public post. Therefore,



this Court is of the opinion that such factual grounds raised cannot be considered in the present writ petition, as the charge memo itself is under challenged.

7.A charge memo is not liable to be quashed as it does not adversely affect the rights of an employee and does not give rise to any cause of action. A writ lies only when some rights of a person are infringed. The charge memo does not infringe the rights of a person / employee. It is only when a final order imposing punishment or otherwise is passed, it may give a cause of action. Thus, the writ petition challenging the charge memo by itself is not maintainable.

8.Let us now consider the situations where an employee is issued with a charge memo. On initiation of disciplinary proceedings, charge memo is the first step taken by the Authority concerned to frame certain charges against the employee concerned. Mere framing of charges would not cause any prejudice to the Government employee. He is duty bound to establish his innocence or otherwise with reference to the documents and evidences available. Contrarily, if the disciplinary proceedings are quashed at the budding stage, the rights of the Departments will be prejudiced. Under the Tamil Nadu Government Servants Conduct Rules, a Government servant is bound to maintain a good conduct and integrity throughout his service both inside and outside the office. While so, certain allegations are brought to the notice of the competent Authorities. They are initiating action under the Rules and they are framing charges. Such framing of charges would not cause any prejudice nor provide any cause of action for the purpose of instituting a writ petition. Therefore, framing of charges itself would not provide a cause of action for entertaining a writ petition. However, a writ petition against the charge memo may be entertained on certain exceptional circumstances, where the charge memo has been issued by an incompetent Authority having no jurisdiction or allegation of *mala fides* is raised. Even in case of raising an allegation of *mala fides*, the Authority against whom such an allegation raised must be impleaded as party respondent in his personal capacity. Except these circumstances, no writ needs to be entertained against the charge memo and such an entertaining would cause prejudice to the Department and the likelihood of causing prejudice is also to be considered by the Court, while entertaining a writ petition.

9.In view of the facts and circumstances, this Court is of the opinion that the petitioner has not established any ground to interfere with the impugned charge memo and the writ petition is liable to be dismissed. The respondents are directed to proceed with the disciplinary proceedings and conclude the same as expeditiously as possible.



10. With the above observations and direction, this Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

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// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr

To

1. The Chief Educational Officer,
Thirucharapalli District.
2. The District Educational Officer,
Thirucharapalli.
3. The Headmistress,
Government Girls Hr.Sec.School,
Town Hall, Trichy-2.

+1 CC to M/s.SPL GP (SR-11498[F] dated 11/03/2022)

W.P.(MD) No.15357 of 2021

10.03.2022

MGJ(31.03.2022) 4P 5C