



W.P(MD)No.21674 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.21674 of 2022

K.Palaniammal

... Petitioner

Vs.

1.The Deputy Director of Health Services,
Karur District,
Karur.

2.The Block Medical Officer,
Government Primary Health Centre,
Kaniyalampatti.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to defer the departmental proceedings pending on the file of the first respondent vide Na.Ka.No.1103/Ni2/2021, dated 25.07.2022 till the disposal of the criminal trial pending in Spl.C.C.No.01 of 2022 on the file of the Chief Judicial Magistrate / Special Judge, Karur.

For Petitioner : Mr.G.Sethu Surendhar

For Respondents : Mr.A.K.Manikkam
Special Government Pleader



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ORDER

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Heard the learned counsel on either side.

2. The writ petitioner is facing prosecution for the offence under Section 7(a) of the Prevention of Corruption Act in Special C.C.No.1 of 2022 on the file of the Chief Judicial Magistrate and Special Judge, Karur.

3. The petitioner has been suspended from service and he has also been served with charge memo. The petitioner wants this Court to direct the respondents to defer the departmental proceedings till the disposal of the criminal case.

4. The stand of the learned counsel for the petitioner is that the petitioner is entitled to free and fair trial. This right will be infringed if the petitioner is made to disclose her defence earlier. Since the departmental proceedings are also founded on the very same cause of action, the petitioner will be put to very serious prejudice if she is made to participate therein. No doubt, there is some force in the contention advanced by the learned counsel appearing for the petitioner.

5. The issue is *no longer res integra*.

6. Now the position is that the employer can parallelly get along with the disciplinary action even during the pendency of the criminal case. Otherwise, the employer is faced with a difficult choice. A person facing prosecution for



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the offence under the Prevention of Corruption Act obviously cannot be reinstated. At the same time, the delinquent official will have to be paid subsistence allowance which may in due course come to 75% of the salary. I can take judicial notice of the fact that the corruption cases take very long time to get decided. Thus, there will be a drain of public exchequer. Recognising this situation, the Hon'ble Supreme Court in the decision reported in **(2016) 9 SCC 491 (SBI & others Vs. Neelam Nag)** had held that the disciplinary authority need not defer the departmental proceedings till the conclusion of the criminal case. Therefore, I am not in a position to grant relief to the writ petitioner.

7. Leaving open all the contentions and remedies of the writ petitioner, the writ petition is dismissed. No costs.

13.09.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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