



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD) .No.24323 of 2019

and

W.M.P(MD) Nos.20936 and 20937 of 2019

A.M.Talib Sheriff

... Petitioner

Vs.

1.The Principal Secretary to Government,
Municipal Administration and Water
Supply Department, Secretariat,
Chennai-09.

2.The Commissioner,
Pattukottai Municipality,
Pattukottai,
Thanjavur District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings of the 1st respondent made in Letter No.8455/ME.4/2019-1 dated 28.08.2019 and quash the same as illegal.

For Petitioners	: Mr.K.Manikandan
For R1	: Mr.M.Ramesh, Government Advocate
For R2	: Mr.M.Kannan

ORDER

The show cause notice issued by the Principal Secretary to Government under Rules 17(c)(i)(1) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules 1955, is under challenge in the present writ petition.

2.The petitioner was working as the Commissioner, Pattukkottai Municipality. A criminal case was registered against the writ petitioner under Sections 7, 13(1)(d) r/w 13(2) of Prevention of Corruption Act, 1988. The petitioner was convicted in Spl.C.C.No.03 of 2015 in judgment, dated 18.02.2019, to undergo the imprisonment for a period of three years and fine of Rs.1,000/- imposed. The petitioner preferred a criminal appeal in CrI.A.(MD)No.93 of 2019, which is pending. Under these circumstances, based on the order of conviction in the Principal Secretary to Government, Municipal



Administration and Water Supply Department, issued a show cause notice under the Disciplinary and Appeal Rules, inflicted the punishment of dismissal from service. If at all there is a ground in defending the proceedings, the petitioner has to submit his explanation to defend his case. Contrarily, show cause notice cannot be set aside by this Court, as the same would not provide any cause for the purpose of entertaining the writ petition.

3.No writ against the show cause notice to be entertained. A writ against the show cause notice may be entertained, if it is issued by the incompetent authority having no jurisdiction or an allegation of madlafide raised, but not otherwise.

4.In the present case, it is not in dispute that the petitioner was convicted in a criminal case, more specifically, under the Prevention of Corruption Act. The respondents issued a show cause notice seeking explanation from the petitioner for invoking Rules 17 (c)(i)(1) of the Disciplinary and Appeal Rules. Thus, the petitioner has to defend his case, if he has chosen to do so, failing which, the authority competent is empowered to pass final orders, on merits and in accordance with law.

5.In the present case, the conviction stands against the writ petitioner and the appeal is pending and mere pendency of the criminal appeal is not a ground to exonerate the petitioner in a departmental disciplinary proceedings. Furthermore, pendency of the criminal appeal is not a bar for the authority in continuing the departmental disciplinary proceedings.

6.In the event of acquittal in a criminal appeal then if necessary, the competent authority may review the order, if any request is made by the petitioner. Contrarily, the departmental disciplinary proceedings need not be kept for indefinite period. Therefore, an appropriate order is to be passed and in the event of order of acquittal in criminal case or otherwise, the petitioner is at liberty to submit a representation to the authority for the purpose of reviewing the order on merits and in accordance with law. This being the principles to be followed, the writ petition filed against the show cause notice deserves no merits and accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CRL SIDE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Principal Secretary to Government,
Municipal Administration and Water
Supply Department,
Secretariat,
Chennai-09.

+1 CC to M/s.SPL GP (SR-6545[F] dated 16/02/2022)

+1 CC to M/s.M.KANNAN, Advocate (SR-6619[F] dated 16/02/2022)

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RJ(CO)

TR(22.02.2022) 3P 4C