



W.P.No.20006 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 26.06.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.S.RAMESH**

**W.P.No.20006 of 2022**  
**and**  
**W.M.P.No.19296 of 2022**

C.Selvam

...Petitioner

**Vs.**

1.The Principal Chief Conservator of Forests,  
Head of Forest Force,  
Panagal Maligai,  
Saidapet, Chennai – 600 015.

2.The Conservator of Forests,  
Dharmapuri Circle,  
Dharmapuri, Dharmapuri District.

3.The District Forest Officer,  
Dharmapuri Forest Division,  
Dharmapuri, Dharmapuri District.

...Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings dated 27.05.2022 made in Na.No.4469/2022 G4 on the file the Conservator of Forests, the 2<sup>nd</sup> respondent herein, quash the same and pass appropriate orders.



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For Petitioner : Mr.A.V.Arun, Assisted by  
Mr.M.A.Aruneshe

For Respondents : Mr.P.Baladhandayutham,  
Special Government Pleader

### **ORDER**

The charge memo dated 27.05.2022 issued to the petitioner under Rule 17(b) of 'the Tamil Nadu Civil Service (Discipline and Appeal) Rules' [hereinafter referred to as 'the Rules'], is put under challenge in the present Writ Petition.

2. The charge against the petitioner is that on 12.05.2022, at about 11.30 p.m., a Makna Elephant died due to electrocution in the patta land of one Srinivasan. The petitioner, who was the jurisdictional Forest Range Officer had failed to prevent / remove such electrical fencing from the patta land and therefore, there was a dereliction of his official duties.

3. The learned counsel for the petitioner submitted that the charge does not fall under any of the categories prescribed under the guidelines and circulars issued by the Government for framing of charges under Rule 17(b)



of the Rules, since the incident occurred in a patta land, which is outside the forest borders and therefore, the charge memo itself is liable to be quashed.

Apart from such grounds, the learned counsel for the petitioner also raised certain grounds touching upon the factual aspects relating to the delinquency.

4. Per contra, the learned Special Government Pleader submitted that the grounds raised by the petitioner relates to various factual circumstances and therefore, it would be appropriate that the petitioner establishes his defense in the inquiry and that the writ petition against the charge memo is not maintainable. This apart, he also submitted that it is the duty of the Forest Range Officer to monitor and control the electrical fences in the Eco-sensitive zone, in view of various instructions issued by the first respondent herein and the failure to comply with such instructions would amount to dereliction of his official duties.

5. The predominant ground raised by the petitioner is that the elephant had died due to electrocution from an electrical fence in a patta land which is outside the jurisdiction of the Palacode Range and therefore, the charge of failure to monitor such electrical fences out side the forest borders will not



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amount to dereliction of duties and the consequential framing of charges is illegal.

6. In the counter affidavit filed in support of the Writ Petition, the respondents have stated that the Eco-sensitive zone immediately surrounding the forest range is maintained for the purpose of prohibited activities or regulated activities and the boundary is clearly demarcated for range administration. The GPS reading of the location, in which the incident occurred, is an Eco-sensitive zone. The second respondent and third respondent in their letters dated 03.10.2020 and 24.10.2020 respectively have clearly instructed the petitioner for taking precautionary measures to protect wild animals from electrocution. In spite of the same, the petitioner had been negligent in following such instructions which led to the unfortunate incident of electrocution on 12.05.2022. When the alleged incident had taken place in an Eco-sensitive zone and the instructions of the respondents 2 and 3 mandates the Forest Range Officer for taking precautionary measures to prevent / remove electrical fences from patta lands also under the zone, the claim of the petitioner that there was no dereliction of duty may not be correct. Even if the petitioner intends to substantiate that his jurisdiction



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doest not extend to the Eco-sensitive zone or the place of the incident of electrocution, the only option available to him would be to set forth his defense in the course of inquiry, since such proof requires to be established through oral and documentary evidences.

7. This apart, the learned counsel for the petitioner submitted that the impugned charge memo relies upon the irrelevant material and there are no relevant materials to frame charges against the petitioner. These grounds touches upon the factual matrix of the delinquency and this Court, exercising its power under Article 226 of the Constitution of India, will not venture into adjudicating such factual disputes, which are subject matter of a charge memo under Rule 17(b) of the Rules.

8. The scope of interference to a charge memo in a departmental action through the proceedings under Article 226 of Constitution of India, is very limited and the exceptions to such interferences have been spelt out in various decisions of the Honourable Apex Court, as well as by this Court. Among such exceptions, if the delay in the proceedings causes prejudice to the party and by taking into account the gravity of offence, this Court would be



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justified in interfering with the charge memo, as held in the case of *the*

*Secretary, Ministry of Defence and others Vs. Prabhas Chandra Mirdha*

reported in (2012) 11 SCC 564. Likewise, in *Union of India and others Vs.*

*Upendra Singh* reported in (1994) 3 SCC 357, it was held that the High

Court can interfere with the charge memo, if the charges framed do not

construe any misconduct or irregularity or is contrary to law. Likewise, the

incompetency of authority and malafides have also been held as exceptions in

*K.Thirumurugan Vs. Additional Chief Secretary* reported in *CDJ 2019*

*MHC 2167.*

9. In the light of the above decisions, the present Writ Petition, challenging the charge memo, cannot be sustained and it is left open for the petitioner to raise all the grounds during the course of inquiry. Accordingly there are no merits and the Writ Petition stands dismissed.

10. I have consciously refrained myself from commenting on the factual grounds raised by the petitioner challenging the charge memo, since the same could interfere with the departmental proceedings and may have a bearing on its final outcome. It is made clear that all the findings rendered in this order



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is only for the purpose of rejecting the grounds raised by the petitioner and hence the Inquiry Officer / Disciplinary Authority shall not be influenced by any of the findings rendered herein.

**11.** The Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**26.06.2023**

Index:Yes  
Neutral Citation:Yes  
Order : Speaking

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**M.S.RAMESH,J.**

vsm

To

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**ORDER MADE IN**

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**and**  
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