



W.P.(MD)No.2121 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.2121 of 2023

R.Rolan

... Petitioner

Vs.

The District Officer

Fire and Rescue Department,

Sivagangai District.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondent authority to keep the departmental proceedings in reference number Na.Ka.No.4138/Aa/2022 on the file of the Respondent, in abeyance till the culmination of the case in Spl.C.C.No.1 of 2020 on the file of the learned Chief Judicial Magistrate (Special Judge for DV and AC Cases), Thoothukudi.



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For Petitioner : Mr.S.Srikanth,
for APN Law Associates

For Respondent : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

ORDER

This writ petition has been filed to direct the respondent authority to keep the departmental proceedings in reference number in Na.Ka.No 4138/Aa/2022 on the file of the Respondent, in abeyance till the culmination of the case in Spl.C.C.No.1 of 2020 on the file of the learned Chief Judicial Magistrate (Special Judge for DV and AC Cases), Thoothukudi.

2. The learned counsel appearing for the petitioner submitted that the petitioner was working as a Station Officer at Thiruvaikundam, Thoothukudi District, Fire and Rescue Department. A case was registered against the petitioner by the Department of Vigilance and Anti Corruption, Thoothukudi, in Crime No.11 of 2019, on the basis of a complaint made by one Sundar for the offence under Section 7(1) of Prevention of Corruption Act, 1988, as if the petitioner had demanded a sum of Rs.5,000/- from him,



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for issuing 'No Objection Certificate' to start a poultry farm and sheep farm from the Fire and Rescue Department and the petitioner was caught red-handed and thereafter, the Law Enforcing Agency registered a case in Crime No.11 of 2019 and thereafter, filed a charge sheet in Spl.C.C.No.1 of 2020 on the file of the Chief Judicial Magistrate, Thoothukudi. Whiles, the official respondent has issued a charge memo against the petitioner for conducting disciplinary proceedings, however, if the departmental proceedings is allowed to continue, it should compel the petitioner to disclose his defence before the disciplinary authority during the enquiry which will adversely affect the petitioner's interest in the criminal case pending before the Criminal Court. Hence, the present writ petition is filed with the aforesaid prayer.

3. The learned counsel for the petitioner further submitted that this Court may issue a direction to the respondent to keep in abeyance the disciplinary proceedings, till the conclusion of the criminal case.

4. The learned Additional Government Pleader appearing for the



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respondent submitted that since the disciplinary proceedings and the criminal case are entirely different on facts, there is no bar for the respondent to proceed with the enquiry and hence, prays for the dismissal of the writ petition.

5. Heard the learned counsel on either side and perused the materials available on record.

6. In view of the decision rendered by the Apex Court in *Noida Entrepreneurs Association Vs. Noida and Others* reported in (2007) 10 SCC 395, wherein, it has been held that even if the criminal case ended in acquittal, there is no bar for continuing the departmental proceedings, the prayer sought for by the writ petitioner cannot be granted.

7. Accordingly, this Writ petition dismissed. No costs.

02.02.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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To

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M.DHANDAPANI,J.

RM

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