



W.P.(MD) No.11324 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.11324 of 2020
and WMP(MD) Nos.9919/2020 & 14102/2022

M.Vasanthi

... Petitioner

-VS-

1.The Deputy Inspector General of Police,
Dindigul Range, Dindigul

2.The Additional Superintendent of Police,
Dindigul District,
Dindigul

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondents 1 and 2 to keep the disciplinary proceedings against the petitioner in PR No.20/2018 dated 13.09.2019 in abeyance, pending disposal of the criminal case registered in crime No.396/2019 under Sections 494(B), 307, 506(ii)IPC on the file of the Dindigul Town North Police Station.



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For Petitioner : Mr.S.Sivakumar
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

This writ petition has been filed for a direction to the respondents 1 and 2 to keep the disciplinary proceedings against the petitioner in PR No. 20/2018 dated 13.09.2019 in abeyance, pending disposal of the criminal case registered in crime No.396/2019 under Sections 494(B), 307, 506(ii)IPC on the file of the Dindigul Town North Police Station.

2. The case of the petitioner is that she was appointed as Sub Inspector of Police on 15.09.2004 and promoted as Inspector of Police on 18.04.2018. On 17.06.2019, when the petitioner enquired one Manojkumar and Sathya, who are husband and wife, in the police station, an Advocate by name Thiyaagu prevented her from discharging her duties and assaulted her inside the police station. Pursuant to which, she preferred a complaint against the Advocate and the Advocate has given a complaint against the petitioner as if



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she has assaulted him. Subsequently the petitioner was suspended from service on 19.06.2019 and a charge memo under Section 3(b) of the TNPSS (D&A) Rules was issued to the petitioner. An enquiry officer was appointed. However, it is her case that she has not been furnished with the copies of the documents mentioned therein. Therefore, she made a representation on 15.11.2019 for furnishing of documents. In the representation, she has stated that since both the departmental proceedings and the criminal case are arising out of the same incident, requested the respondents to keep the departmental proceedings in abeyance. Subsequently, she made another representation to furnish her about the copies of the documents and details of the charge sheet. However, the enquiry officer proceeded with the enquiry. It is her further case that as per the dictum laid down by the Apex Court that when a departmental proceedings and a criminal case, which has arisen out of the same incident, are pending, then the departmental proceedings be kept in abeyance till the disposal of criminal case. Hence, she made a representation to the first respondent. However, since no action is forthcoming, she is before this Court with this writ petition.



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3. The learned counsel for the petitioner would submit that when the criminal case and the departmental proceedings are arising out of the similar set of facts, if the departmental proceedings is proceeded against the petitioner, it will adversely affect the interest of the petitioner. He would further submit that the Government in G.O.Ms.No.66 dated 06.07.2022 issued a procedure to conduct the disciplinary proceedings to the effect that when on the similar set of facts, if a criminal case and a departmental proceedings are pending, then, the departmental proceedings shall be kept in abeyance till the completion of criminal case. He would further submit that though charge sheet has been filed in the criminal case, the petitioner has not been served with a copy of the charge sheet and it has not been marked as a document in the disciplinary proceedings and hence, he prays for a direction to the respondents to consider the representation of the petitioner.

4. Heard the learned Additional Government Pleader for the respondents, who would submit that since the disciplinary proceedings and the criminal case are entirely different on facts, there is no bar for the respondents to proceed with the enquiry and hence, prays for dismissal of the writ petition.



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5. In view of the decision rendered by the Apex Court in *Noida Entrepreneurs Association v. 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. Hence, the prayer sought for by the petitioner cannot be granted. However, with regard to the furnishing of copies, this Court is inclined to issue a direction to the respondents to consider the representation of the petitioner and pass appropriate orders for furnishing the documents enabling her to effectively participate in the departmental enquiry. With the above direction, the writ petition is disposed of. No costs. Consequently connected Miscellaneous Petitions are closed.

19.01.2023

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

RR
To
1.The Deputy Inspector General of Police,
Dindigul Range, Dindigul

2.The Additional Superintendent of Police,
Dindigul District, Dindigul



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M.DHANDAPANI, J.

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