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W.P.(MD)NO.10731 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.10731 of 2023 AND
W.M.P.(MD)No.9450 of 2023

R.Rajaram

... Petitioner

Vs.

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

2. The Additional Superintendent of Police,
ADSP/Enquiry Officer,
Head Quarters Madurai District,
Madurai.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 2nd respondent in his proceedings in Na.Ka.No.01/Addl.SP/HQ/MD/2023 dated 11.04.2022 insofar as the denial of the documents is concerned and quash the same and consequently direct the respondents to furnish the Deputy Legal Advisor factual report dated 23.09.2013 and the V and AC, Madurai office Dispatch Register for 2013.



For Petitioner : Mr.V.Panneer Selvam
For Respondents : Mr.T.Villavan Kothai,
Additional Government Pleader.

* * *

ORDER

Heard the learned counsel on either side.

2. The petitioner was working as Inspector of Police V&AC. He reached the age of superannuation on 31.01.2013. He was issued with charge memo on 03.04.2014 alleging that since he gave improper testimony as prosecution witness in Special S.C.No.63 of 2011 on the file of the Special Court for Trial of Cases under Prevention of Corruption Act, Madurai, it ended in acquittal on 13.02.2013. The petitioner challenged the charge memo but was not successful. Now he has to necessarily face the enquiry.

3. The petitioner applied to the enquiry officer for being furnished with a copy of the report dated 23.09.2013 given by the Deputy Legal Advisor V &AC, Madurai. He also wanted the relevant extract from the Despatch Register. The said request was denied. Challenging the same, this writ petition came to be filed.



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4. The second respondent has filed a detailed counter affidavit and the learned Additional Government Pleader took me through its contents.

5. The stand of the second respondent is that the opinion of the Deputy Legal Advisor is a matter between him and the concerned department and that it cannot be furnished. I would clearly endorse the contention that the communication between a lawyer and client is privileged under Section 122 of The Indian Evidence Act 1872 and that the communication between the Deputy Legal Advisor and the authority concerned would also partake similar character. But in this case, it is one of the relied upon documents.

6. My attention has been drawn to Annexure III document (4) enclosed in the charge memo. The disciplinary authority has relied on the said report. Therefore, it is not open to the second respondent to take the stand that the report shall not be given to the petitioner herein. In the counter affidavit filed by the second respondent, it has been stated that this document cannot be called as a relied-upon document. I am of the view that the counter affidavit has been drafted without even perusal of



the charge memo and annexures. The document that is annexed to the charge memo has to be necessarily furnished to the petitioner.

7. In this view of the matter, the order impugned in this writ petition is set aside. The second respondent is directed to furnish a copy of the report dated 23.09.2013 given by the Deputy Legal Advisor V&AC, Madurai. This shall be done within a period of two weeks from the date of receipt of a copy of this order. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

21.06.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
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1. The Deputy Inspector General of Police,
Madurai Range,
Madurai.
2. The Additional Superintendent of Police,
ADSP/Enquiry Officer,
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G.R.SWAMINATHAN,J.

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