



W.P(MD).No.23253 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 13.10.2023

ORDER PRONOUNCED ON : 18.10.2023

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.23253 of 2023
and W.M.P(MD).No.19444 of 2023**

K.Ramachandran

....Petitioner

Vs

1.The District Educational Officer(Elementary Education)
Office of the District Educational Officer (Elementary Education)
Government Boys Higher Secondary School Campus
Paramakudi
Ramanathapuram District 623 707

2.The Director of Elementary Education
Directorate of Elementary Education
DPI Campus, College Road
Chennai 600 006

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the proceedings of the first respondent impugned letter R.C.No.828/A3/2023 dated 25.07.2023 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and quash the same as illegal.



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For Petitioner : Mr.K.Ramachandran
Party-in-person

For Respondents : Mr.V.Om Prakash
Government Advocate

ORDER

The writ petition has been filed challenging the charge memo issued by the first respondent herein on 25.07.2023.

2.The writ petitioner is working as a Secondary Grade Teacher in Panchayat Union Primary School, M.V.Pattinam, Thiruvadanai Union, Ramanathapuram District from 04.06.2008 onwards. An F.I.R was registered by CBI/ACB, Madurai on 30.04.2021 in R.C.No.221 of 2021. Originally the writ petitioner's brother Panchatcharam was implicated as first accused. Later based upon the investigation, the writ petitioner herein was arrayed as the second accused.

3.Based upon the above said criminal case, the petitioner was arrested and he was in judicial custody for 55 days. The petitioner was suspended by the first respondent on 26.02.2023. He was released on bail on 18.04.2023.

4.The writ petitioner has challenged the order of suspension in W.P(MD).No.17695 of 2023 which was dismissed by this Court by an order dated 24.08.2023. The petitioner has been issued with a charge memo on 25.07.2023 imputing four charges as against him. The petitioner has



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submitted his explanation on 08.08.2023 for the above said charge memo. So far the enquiry has not yet commenced. Challenging the said charge memo issued under Rule 17(b) of Tamil Civil Services (Discipline and Appeal) Rules, the present writ petition has been filed.

5.The writ petitioner who is appearing party-in-person had relied upon G.O.(Ms).No.124 Personal and Administrative Reforms (Per.N) Department, dated 22.02.1983 to contend that the criminal offence that is alleged as against the writ petitioner is no way connected with discharge of his official duties and therefore, there is no need to pursue the departmental action as against him.

6.He had further relied upon G.O.(Ms).No.120 Personnel and Administrative Reforms (N) Department, dated 30.08.2018 to contend that where the criminal case is no way connected with discharge of his official duties, even suspension of a Government servant is the discretion of the Government and it is not mandatory to suspend him.

7.According to the writ petitioner, he has been falsely implicated in a criminal case in which his brother was involved and a perusal of F.I.R and the charge sheet would indicate that those offences are in no way connected with discharge of his official duties. Hence, he prayed for quashing the charge memo issued as against him.



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8.Per contra, the learned Government Advocate appearing for the respondents had contended that the allegations as against the petitioner are very serious in nature and CBI has registered a criminal case. He was arrested on 24.02.2023 and released on bail only on 19.04.2023. The charge memo will clearly indicate that the petitioner had committed misconduct and therefore, he is liable to be proceeded with in the departmental proceedings.

9.I have considered the submissions made on either side and perused the material records.

10.An F.I.R has been registered at the instance of the Deputy Director of Income Tax for the alleged offence under Section 120 (b) read with Sections 420, 467, 468 and 471 of I.P.C. A charge sheet has been laid before the II Additional District Court for CBI Cases, Madurai on 31.03.2023. A perusal of the charge sheet reveals that the petitioner had applied and obtained digital signature certificate from M/s.Capricorn Identity Services Private Limited, New Delhi and used the same to alter/ insert the TDS records of Income Tax TDS Department, Ghaziabad. The server of Income Tax Department discloses that the digital signature certificate of the writ petitioner was used. The charge sheet further discloses that various amounts have been credited to the two Bank account of the writ petitioner by his brother who is the first accused.



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11.The charge memo dated 25.07.2023 enumerates four charges. The first two charges relate to the arrest, judicial custody and filing of the charge sheet. The third and fourth charges allege that the writ petitioner is involved in commercial/trade activities and he had violated Rule 8 of the Conduct Rules. These charges further reveal that the petitioner had submitted Income Tax returns for others and involved in financial fraud.

12.Charges 3 and 4 clearly reveal that the Department is going to proceed as against the misconduct of the writ petitioner relating to his commercial activities in violation of the Government Service Conduct Rules. The very fact that the writ petitioner had obtained digital signature certificate would clearly disclose that it is only for commercial activities. Therefore, this Court finds that the Government orders relied upon by the writ petitioner for quashing of the charge memo are not applicable to the facts of the present case. That apart, the petitioner is being prosecuted for an offence that he had used his digital signature to enter into the income tax portal of third party assesseees and made alteration/insertion in order to get refund. These charges are very serious in nature.



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13.The petitioner has not questioned the charge memo on the ground of vagueness or without jurisdiction or on the ground of malafide. Therefore, this Court does not find any merit in the writ petition and the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.10.2023

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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