



W.P(MD).No.24785 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 23.11.2023

ORDER PRONOUNCED ON : 15.12.2023

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

**W.P.(MD).No.24785 of 2023
and WMP(MD).No.20972 of 2023**

V.P.Murugan

....Petitioner

Vs

1.The Joint Director of Agriculture
Collectorate Master Complex
Theni 625 531

2.The Personnel Assistant to Collector (Agri),
Collector's Office
Theni 625 531

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the first respondent ie. the Joint Director of Agriculture, Theni in Na.Ka.No.A4/7242/2023 Dated 01.09.2023 and quash the same.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.T.Villavan Kothai
Additional Government Pleader



W.P(MD).No.24785 of 2023

ORDER

WEB COPY

The writ petition has been filed by an Assistant working in the office of Personnel Assistant to Collector (Agri), Theni challenging the charge memo issued to him on 01.09.2023 by the second respondent.

2. According to the learned counsel appearing for the writ petitioner, the petitioner is the State Auditor in the Tamil Nadu State Government Employees Association. A news item appeared in a weekly magazine in the month of August-2023 that the agricultural lands in Theni District are being converted as Real Estate based upon the certificate issued by the first respondent herein. Disturbed by the said news, the petitioner had communicated the said news in a WhatsApp group known as TAMSA which is a WhatsApp group meant for Tamil Nadu Agricultural Ministerial Service Association. According to the petitioner, the news was communicated literally and verbatim and it does not amount to misconduct. Therefore, the same is not in violation of Tamil Nadu Government Servants Conduct Rules, 1973.

3. The learned counsel for the petitioner had relied upon the judgment of this Court *in W.P(MD).No.9754 of 2023 (A.Lakshminarayanan Vs. The Assistant General Manager-HRM/Disciplinary Authority) dated 08.08.2023* to contend that when the association activities are being discussed in a closed WhatsApp, it will not attract disciplinary proceedings. The petitioner has got



W.P(MD).No.24785 of 2023

a right to vent.

WEB COPY

4.The learned counsel for the petitioner had further contended that the concerned Joint Director of Agriculture against whom the allegations were made has framed the charge memo. Hence, he prayed for setting aside the said charge memo.

5.The first respondent had filed a counter on 16.10.2023 and an additional counter was filed on 18.11.2023. In the counter affidavit, it has been contended that the petitioner has criticized the activities of the Government and the duties performed by the Joint Director of Agriculture. The petitioner has not disputed the fact that he had uploaded certain news items in the WhatsApp group. The petitioner is not an industrial employee who can rely upon the judgement of this Court in WP(MD).No.9754 of 2023. The petitioner being a Government employee has to abide by the Government Servant Conduct Rules.

6.It is further contended that the petitioner had propagated unwanted news which affects the rights of other parties. In the news item, it is further pointed out that SC/ST employees are harassed without any reason therefore, thereby creating the rift among the Government servants.

7.In the Additional Counter filed by the new Joint Director of Agriculture, it is contended that the writ petitioner had tried to propagate false things without any iota of truth against the entire agricultural



W.P(MD).No.24785 of 2023

department. The messages are not limited to the closed WhatsApp group of the employees, but it was forwarded to others also. It is further contended that based on proper material, a charge memo has been issued. Therefore, the authorities may be permitted to proceed in accordance with law.

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

9.The petitioner is working as an Assistant in the office of the Joint Director of Agriculture at Theni. Admittedly, he is one of the administrators of a WhatsApp group by name TAMSA(Tamil Nadu Agricultural Ministerial Service Association). According to the averments in the writ petition, the petitioner has merely uploaded the news item published in the weekly Magazine in a literal and verbatim manner in the WhatsApp group and the same cannot be construed to be a misconduct under Tamil Nadu Government Servants Conduct Rules, 1973.

10.Three documents have been annexed to the impugned charge memo. The first document shows the photographs of some of the officials with a warning that the corruption in Theni District Agricultural Department would be released soon. The second document is not a photograph of the news magazine, but a typed news item which shows that there is a discrimination as against SC/ST employees by the Joint Director and transfers are effected against the wishes of the employees. The third document indicates that it is a



W.P(MD).No.24785 of 2023

typed message wherein one of the agriculture officer is said to be involved in corruption activities by converting the agricultural lands to house-sites. Based upon the above said document, five charges have been framed as against the writ petitioner.

11.The sum and substance of the charges are as follows:

(i)The petitioner has been propagating defamatory messages as against the Tamil Nadu Government, the Chief Minister and the Agricultural Minister and other higher officials of Agricultural Department without any basis whatsoever.

(ii)Motives are imputed as against the decision of the higher officials and they are described in a defamatory manner in the social media.

(iii)When the Joint Director is functioning as per the direction of the higher officials, the writ petitioner had criticized them, propagated false news through WhatsApp group.

(iv)Without permission from the higher officials, the petitioner had given a wrong information to magazine and media. He had also shared them with his co-employees, in such a way that it will be a hindrance to the administration.

(v)The petitioner had violated Rule 20 of Tamil Nadu Government Servants Conduct Rules, 1973.



W.P(MD).No.24785 of 2023

WEB COPY

12.The primary contention of the learned counsel for the writ petitioner is that he had simply forwarded the magazine news in the WhatsApp group and therefore, no disciplinary proceedings could be initiated as against him. The learned counsel had also relied upon the judgement of the learned Single Judge of this Court in ***W.P(MD).No.9754 of 2023 (A.Lakshminarayanan Vs. The Assistant General Manager-HRM/Disciplinary Authority)*** dated 08.08.2023 to impress upon the Court that the petitioner has got a right to vent.

13.A perusal of the judgment of the learned Single Judge in the above said judgement reveals that the petitioner in the said case was an Office Bearer of the trade Union. In the WhatsApp group maintained by the employees, the petitioner had posted certain objectionable messages mocking the administrative process/decision and belittling the higher authorities. The learned Single Judge in the said judgment in paragraph Nos. 10 and 12 has held as follows:

“10.There is something called “right to vent”. Every employee or a member of an organization will have some issue or the other with the management. To nurture a sense of grievance is quite natural. It is in the interest of the organization that the complaints find expression and ventilation. It will have a cathartic effect. If in the process, the image of the organization



WEB COPY



W.P(MD).No.24785 of 2023

is affected, then the management can step in but not till then.

12..... But when the members of a WhatsApp group are merely discussing among them, matters of common interest, that cannot be a target of attack. The members of the WhatsApp group formed by the petitioner felt aggrieved by some of the actions of the respondent Bank. The petitioner expressed his views. Of course, the manner of expression cannot be said to be in good taste, but then, everyone has his own way of articulating. When I expressed my disapproval, the petitioner unconditionally apologized in writing. If the management has a mole among the members and snooped the contents of conversation among them, the person who had expressed his opinion in the first instance cannot be proceeded against.....”

14.A perusal of the judgment of the learned Single Judge will clearly indicate that in the said case, the petitioner therein had posted the objectionable messages mocking the administration process/ decision of the higher authorities. The employees therein were governed by a Circular issued by Grama Bank. In the judgement, it could be seen that one of the employees had commented upon the action initiated by the higher officials which disturbed their service condition. However, in the present case, the petitioner is governed by Tamil Nadu Government Servants Conduct Rules, 1973.

15.In the present case, it could be seen from the documents annexed to the charge memo that the petitioner has made allegation as against the higher officials of indulging in corrupt activities. As per the charge memo, the



W.P(MD).No.24785 of 2023

messages are not restricted to the closed WhatsApp group, but they have been forwarded to others also. As per the allegation in the charge memo, the petitioner is responsible for publication of certain defamatory material in the news magazine. Therefore, it is clear that the messages did not deal with the service condition of the employees and the same was not restricted to the members of the closed WhatsApp group. The messages perse indicate that the allegations corruption are made against the higher officials.

16. It is no doubt true that any citizen including a Government Servant would have a right to bring it to the notice of the Government about the corrupt activities of an official. However, it has to be done through proper channel. Then only the affected officials would have an opportunity to defend themselves. In case, if it is circulated as a message in a WhatsApp or to other individual employees, the official who is not part of that group would be put to great hardship without having an opportunity to defend himself.

17. The right to vent as expressed in the judgement cited supra, could only be invoked only when the messages are shared or forwarded in a WhatsApp group relating to the service condition of the employees. On the other hand, if the messages are uploaded touching upon the character and conduct of another employee who is not part of the group, the principle of right to vent cannot be invoked.



W.P(MD).No.24785 of 2023

18.In view of the above said factual distinction, this Court is not in a position to follow the judgment of the learned Single Judge of this Court in the judgement cited supra. The charge memo has been attacked also on the ground that it has been issued by the same official against whom the allegations have been made in the WhatsApp group. A perusal of the WhatsApp messages would clearly indicate that the petitioner had made allegations without naming the officer or his designation. Therefore, the said contention is liable to be rejected.

19.In view of the above said facts, there are no merits in the writ petition. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

15.12.2023

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



W.P(MD).No.24785 of 2023

WEB COPY

To

1.The Joint Director of Agriculture
Collectorate Master Complex
Theni 625 531

2.The Personnel Assistant to Collector (Agri),
Collector's Office
Theni 625 531



WEB COPY



W.P(MD).No.24785 of 2023

R.VIJAYAKUMAR, J.

msa

Pre-delivery order made in

W.P.(MD).No.24785 of 2023
and WMP(MD).No.20972 of 2023

15.12.2023