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W.P.No.5641 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.5641 of 2024 and
WMP.No.6236 of 2024

S.Anuradha

... Petitioner

Vs.

1.The Joint Commissioner of Police,(West Zone)
Greater Chennai Police,
Thirumangalam,
Chennai 600 102

2.The Deputy Commissioner of Police,(West Zone),
Kolathur District,
70 Feet Road, Jawahar Nagar,
Chennai 600 082

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of mandamus directing the first respondent to furnish certified copies of documents which are mentioned in Annexure-III documents No.1 to 14 and in Annexure IV Statement of Witnesses 1 to 14 respectively in Charge Memo in PR.no.49/WZ/2023 under Charge memo under Rule 3(b) of Tamilnadu Police Subordinate Services(Discipline and Appeal) Rules, 1955 dated 12.12.2023.

For Petitioner : Mr.S.Xavier Felix



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For Respondents : Mr.K.Tamilvendan,
Government Advocate

ORDER

This writ petition has been filed for direction to the first respondent to furnish certified copies of documents which are mentioned in Annexure-III documents No.1 to 14 and in Annexure IV Statement of Witnesses 1 to 14 respectively in Charge Memo in PR.no.49/WZ/2023 under Charge memo under Rule 3(b) of Tamilnadu Police Subordinate Services(Discipline and Appeal) Rules, 1955 dated 12.12.2023.

2. The case of the petitioner is that one, Monikkasree entangled with family dispute, due to dowry harassment and domestic violence had with her husband and her in-laws filed number of criminal proceedings and vice versa. As per the direction of this Court, pending criminal complaint was referred to the petitioner for investigation. Eventhough the Petitioner conducted investigation and referred the counter complaint lodged by the in-laws of said Monikkasree and filed Final Report on the basis of the complaint of the said Monikkasree and



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due to delay as she assumed, lodged a false complaint against the Petitioner before the DVAC. The complaint was registered against the Petitioner in Crime No.8/AC/2022/CC-II, dt.19.10.2022 under the Prevention Of Corruption Act. Thereafter, the Petitioner was granted bail. Since the Petitioner was in judicial custody for more than 48 hours, she was placed under suspension on 21.10.2022. The Petitioner submitted representation to revoke the suspension. Eventhough the representation dated 13.01.2023 was received by the Respondents, the same has not been considered of so far. As against the Petitioner, pending investigation of the Criminal Case, Charge Memo of the 1st Respondent in PR.No.49/WZ/2023, dt.12.12.2023 was issued and the same was received by the Petitioner on 24.12.2023. The Petitioner submitted a Letter of Requisition in the form of Representation, dated 06.01.2024 addressed to the 1st Respondent to furnish copies of the List of Documents 1 to 14 and Statement of Witnesses mentioned in Annexure III and IV of the Charge Memo to file reply to charge memo. But the same have not been furnished. While being so, even without furnishing the copies of the documents and statement of witnesses even



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after the request, without furnishing, the 2nd Respondent issued the Memo in Ref. Tha.Ko.No.49/Tha.P. (Me)/2023 Rule 3(b) dated 12.02.2024 to call for enquiry.

3. This Court already dealt with the above issue in WP.No.13217 of 2021 dated 28.06.2021, wherein it is held as follows:

5. Relying upon Regulation 10(7) of CMWSS Board Employees (Discipline and Appeal) Regulations, 1978, learned counsel for the respondents submitted that the respondent is not required to give copies of the documents, but the petitioner can be permitted to inspect the documents in connection with the enquiry as contemplated in the Regulations. As per Regulation 10 (7) of CMWSS Board, the competent authority has the discretion to give opportunity to the employee to inspect any document in connection with the enquiry.

6. The discretion referred to in Regulation 10(7) of CMWSS Board cannot be treated as if the competent authority cannot furnish copies of documents which are actually required for the enquiry. Even if Rules do not provide for furnishing of the copies of the documents which are relied upon by the employer, it cannot be



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interpreted to exclude principles of natural justice. The Rule or Regulations have to be interpreted to effectuate principles of natural justice. 7. This Court, in the absence of rules, has been guided by precedents of the Hon'ble Supreme Court holding that wherever the Rules do not provide observance of principles of natural justice, the principles of natural justice can be read in to the Rules, so as to make the Rules intravires. Though this Court does not agree with all the contentions of the petitioner on merits, is not inclined to express any opinion on the merits of the case pleaded by the petitioner in this Writ Petition. However, for the purpose of expediting the enquiry and to ensure justice and effective adjudication, this Court directs the 2nd respondent to furnish the certified copies of the documents which are mentioned in the Charge Memo, dated 27.02.2021 to the petitioner, unless any such documents fall within the exception (documents which cannot be disseminated for good and sufficient reasons), within a period of three weeks from the date of receipt of a copy of this order.

4. Therefore, the first respondent is directed to furnish the certified copies of the documents which are mentioned in the charge



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memo dated 12.12.2023 to the petitioner, unless any such documents fall within the exception(documents which cannot be disseminated for good and sufficient reasons), within a period of two weeks from the date of receipt of copy of this order. Further, after furnishing copies, the first respondent is directed to issue notice for enquiry.

5. With the above directions, this writ petition is disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

05.03.2024

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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To

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G.K.ILANTHIRAIYAN, J.

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