IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2024

CORAM:

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

W.P.No.6427 of 2024
and
W.M.P.No.7146 of 2024

A.Subramaniyan .... Petitioner

Vs

1. The Principal Secretary/
The Commissioner of Commercial Taxes,
Chepauk, Chennai – 5.

2. The Director,
Directorate of Vigilance and Anti-Corruption,
MKN Road, Collectors Nagar,
Alandur,
Chennai – 600 016. .... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent herein to defer holding of the disciplinary enquiry pertaining to the charge memo dated 24.02.2023 in CD2/35240/2016-I till conclusion of the criminal case in Special Case No.4 of 2019 on the file of the Chief Judicial Magistrate at Tiruvallur.

For Petitioner : Mr.G.Magesh Kumar

For Respondents : Mrs.K.Vasanthamala
Government Advocate

ORDER

This Writ Petition has been filed for a direction directing the first respondent to hold the disciplinary enquiry pertaining to the charge memo dated 24.02.2023 till conclusion of the criminal case.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner had joined as a Junior Assistant in Commercial Taxes Department at Kancheepuram on 27.10.1994. Subsequently, he was promoted to the post of Assistant Commissioner, Commercial Taxes in Thiruvallur Assessment Circle with effect from 03.02.2016. On the complaint, alleging that the petitioner demanded illegal gratification of Rs.4,000/- and had also demanded a sum of Rs.1,500/- for issuance of a registration certificate to the complainant. Pursuant to the said complaint, an FIR was registered in Crime No.10/2016/AC/HQ.Spl.C4/2019 for the offence under Section 7 of the Prevention of Corruption Act, 1988. After filing the final report by the Investigating Officer, the same has been taken cognizance in Spl.C.C.No.4 of 2019 on the file of the Chief Judicial Magistrate, Tiruvallur. Pursuant to the registration of the FIR, the petitioner was suspended from service on 26.10.2017. Now, the criminal case is under the trial and the prosecution had so

far examined four witnesses.

4. While being so, the petitioner was served with a charge memo dated 24.02.2023 on the very same set of charges. Though, the Disciplinary Authority is permitted to conduct simultaneous disciplinary proceedings, the Disciplinary Authority ought not to have allowed the defence of the petitioner's criminal case to be exposed in the departmental proceedings. That apart, the prosecution had examined four witnesses and about to examine the Investigating Officer.

5. Considering the facts and circumstances of the case, the respondents are directed to keep the disciplinary proceedings in abeyance for a period of three months from today. The petitioner is directed to co-operate for criminal trial pending in Spl.C.C.No.4 of 2019 on the file of the Chief Judicial Magistrate, Tiruvallur. Thereafter, the respondents are directed to proceed with the disciplinary proceedings as against the petitioner in the manner know to law.

6. With the above direction, this Writ Petition stands disposed of. Consequently, connected miscellaneous petition is closed. No costs.

13.03.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
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To

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<u>G.K.ILANTHIRAIYAN. J,</u>

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