



WEB COPY

W.P.No.10550 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2024

CORAM

THE HONOURABLE MR.JUSTICE **D. BHARATHA CHAKRAVARTHY**

W.P.No.10550 of 2024
and WMP.Nos.11575 & 11578 of 2024

R. Arul Pragasam

... Petitioner

-Vs-

1. The Deputy Director (MA)
Local Administrative Department
Yanam,
Pondicherry.

2. The Secretary (LA),
Local Administrative Department
Yanam,
Pondicherry.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari Mandamus calling for the records pertaining to the Memo dated 15.11.2023 passed by the 1st respondent and suspension order dated 19.01.2024 bearing order No.1125/LAD/PPS/2024 passed by the 2nd respondent and to quash the same and consequently to direct the 2nd respondent to reinstate the petitioner in service with all consequential monetary and other service benefits.

For Petitioner : Mr.Madhuprakash

For Respondent : Mr.V.Vasanthakumar
Addl. Government Pleader (Pondy)



ORDER

WEB COPY This writ petition is filed for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the Memo dated 15.11.2023 passed by the 1st respondent and suspension order dated 19.01.2024 bearing order No.1125/LAD/PPS/2024 passed by the 2nd respondent and to quash the same and consequently to direct the 2nd respondent to reinstate the petitioner in service with all consequential monetary and other service benefits.

2. The impugned order challenges the memo issued to the petitioner on 15.11.2023 and the suspension order dated 19.01.2024. The 1st impugned order is a memorandum calling for explanation from the petitioner as to what happened in respect of the action on a complaint. The Deputy Director, Local Administration Department being the superior authority of the petitioner is entitled to issue a memo to know what happened relating to the issue of license to the particular entity. Therefore, the memo itself cannot be called in question by way of the writ petition. The memo only requests the petitioner to submit an explanation. The petitioner has also already submitted an explanation, therefore challenge to the memorandum dated 15.11.2023 is bound to fail.

3. Secondly, the writ petition challenges the order of suspension. In



contemplation of Disciplinary enquiry the order of suspension is passed under Sub rule (1) of Rule 10 of Central Civil Service (Classification, Control and Appeal) Rules, 1965. The order is issued by the Secretary to the Local Administration Department. Admittedly, the said authority has jurisdiction to suspend the petitioner and also to initiate disciplinary proceedings. No other ground of any malafide is raised as against the said authority neither any person is impleaded in the individual capacity.

4. The learned counsel for the petitioner strenuously contended that a perusal of the explanation submitted by the petitioner itself would show that even though the said entity, namely M/s.Victory Yanam Sports Cultural and Recreation Club applied for trade license, the license which is granted under Section 355 of the Puducherry Municipality Act, 1973 is meant only for a Hotel and Restaurant and is no way connected with the running of a recreation club / society. Therefore, the impugned order of suspension cannot be sustained. He further submitted that as a matter of fact the said club is aggrieved by the action of the petitioner in not granting them the recreation club license and has also filed a writ petition and the same is pending. Therefore, without even application of mind the petitioner has been suspended and the petitioner has not done any wrong what so ever.



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5. For the explanation that may be given by the petitioner for the merits of the charge which is going to be issued against the petitioner, the order of suspension cannot be interfered with. It may be that the petitioner has not done any mistake, but the merits or otherwise of the allegation has to be considered only at the time of considering the explanation to the charge memo. Now, the entire issue is in nascent stage. The respondents thought it fit to place the petitioner in suspension in contemplation of the Disciplinary Enquiry. Therefore, at this stage the arguments relating to the merits of the matter cannot be a ground to interfere in the suspension order. Prima facie the respondents have found that the entity is M/s.Victory Yanam Sports Cultural and Recreation Club and the same started running with a dubious license which was granted by the Municipality. Therefore, finding no grounds to interfere, this writ petition stands dismissed. No costs. Consequently connected miscellaneous petitions are also closed.

18.04.2024

Index : Yes/No
Speaking order/Non-speaking order
dpq



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To

1. The Deputy Director (MA)
Local Administrative Department
Yanam,
Pondicherry.
2. The Secretary (LA),
Local Administrative Department
Yanam,
Pondicherry.



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D. BHARATHA CHAKRAVARTHY, J.

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