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WP.No.19671 of 2023

In the High Court of Judicature at Madras

Dated : 14.10.2024

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.19671 of 2023 &
WMP.No.18936 of 2023

T.Dhanalakshmi,
Superintendent
(suspended)

...Petitioner

Vs

1.The Conservator of Forests,
Dharmapuri Circle, Dharmapuri.
636705. Dharmapuri District.

2.The Forest Engineer, Forest
Engineering Division, Harur,
Dharmapuri District.

3.Mr.Vincent, Enquiry Officer,
Assistant Conservator of Forests,
Dharmapuri Division, Dharmapuri.
636705. Dharmapuri District.

4.The Inspector of Police,
Vigilance & Anti Corruption,
Krishnagiri. Krishnagiri District.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing respondents 1 to 3 to defer the conduct of enquiry in the disciplinary proceedings in Proceedings Pro.No.9300/2022/G2 dated 21.3.2023 pursuant to the



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Charge Memo No.232/2018/E dated 03.3.2023 passed by respondents 1 and 2 respectively till the disposal of the Criminal Case in Spl.C.C.No.5 of 2019 on the file of the learned Chief Judicial Magistrate/Special Court for Prevention of Corruption Act Cases, Dharmapuri on the ground of similarity of charges based on the same set of oral and documentary evidence by considering petitioner's representation dated 20.6.2023.

For Petitioner : Ms.M.Adhishree
For Respondents : Dr.T.Seenivasan, SGP

ORDER

This writ petition has been filed seeking for the issuance of a Writ of Mandamus directing respondents 1 to 3 to defer the inquiry in the disciplinary proceedings initiated pursuant to the proceedings dated 21.3.2023 issued by the first respondent and the charge memo dated 03.3.2023 issued by the second respondent and to keep the departmental proceedings in abeyance till the disposal of the criminal case in Special C.C.No.5 of 2019 pending on the file of the learned Chief Judicial Magistrate/Special Court for Prevention of Corruption Act Cases, Dharmapuri (for short, the Special Court).



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2. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

3. The case of the petitioner is as follows :

(i) The petitioner has been working as the Superintendent during the relevant point of time. A first information report came to be registered by the fourth respondent in Crime No.3 of 2018 by arraying the petitioner as an accused. Thereafter, the petitioner was arrested and remanded to judicial custody for the alleged offence under Section 7(a) of the Prevention of Corruption Act, 2018. The allegation against the petitioner is that he demanded bribe for making arrangement to pass a bill. The petitioner was placed under suspension through the proceedings of the first respondent dated 29.8.2018. Though the date of superannuation of the petitioner fell on 31.10.2019, he was not allowed to retire from service, but was placed under suspension.

(ii) The criminal case ended up in filing a police report before the Special Court and it was taken on file as Special C.C.No.5 of 2019. The charges were framed and P.W.1 was examined on the side of the prosecution. While so, the second respondent issued the charge memo dated 03.3.2023 and proceedings were initiated by the first respondent under Rule 17(b) of the Tamil Civil Services (Discipline and Appeal) Rules. Pursuant to that, an Enquiry Officer was also appointed.



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Subsequently, the petitioner made a representation dated 20.6.2023 to the first respondent to keep the disciplinary proceedings in abeyance stating that the disciplinary proceedings were initiated on the same set of allegations and that if the petitioner undergoes the disciplinary proceedings, her defence will be exposed and it will prejudice her in the pending criminal case. Since the said representation has not yet been considered, the petitioner is before this Court.

4. The second respondent filed a counter affidavit for himself and on behalf of the first respondent wherein he heavily relied upon G.O.Ms.No.66 Human Resources Management (N) Department dated 06.7.2022. He took a stand that there is absolutely no bar in proceeding further with the departmental proceedings simultaneously with the criminal trial. Ultimately, the second respondent sought for dismissal of this writ petition.

5. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record.



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6. The short issue that arises for consideration in this writ petition is as to whether the disciplinary proceedings will have to be kept in abeyance till the completion of the criminal case.

7. There is no dispute with regard to the fact that the criminal proceedings is now at the stage of trial before the Special Court and already, P.W.1 has been examined. A careful reading of the charge memo issued by the second respondent and the report filed by the police along with the list of witnesses would show that the disciplinary proceedings were initiated on the very same set of facts by relying upon the very same list of witnesses, who are going to be examined by the prosecution in the pending criminal case.

8. The learned counsel for the petitioner has relied upon the judgment of the Apex Court in the case of ***M.Paul Anthony Vs. Bharat Gold Mines Ltd. [reported in 1999 (3) SCC 679]***.

9. Per contra, the learned Special Government Pleader appearing for the respondents has strongly relied upon G.O.Ms.No.66 dated 06.7.2022.



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10. The issue as to whether the departmental proceedings and the criminal trial can go on simultaneously has been dealt with in various cases by the Apex Court and they were followed by this Court in a number of decisions. There is no straight jacket formula to hold that wherever the criminal proceedings are pending, the departmental proceedings cannot be initiated. This is the purport of G.O.Ms.No.66 dated 06.7.2022 that was relied upon by the learned Special Government Pleader.

11. The only test to be applied is to see as to whether the departmental proceedings will seriously prejudice the delinquent employee in the criminal trial. If, on the facts of the case, the Court is able to come to such a conclusion, the Court can certainly direct the departmental proceedings to be kept in abeyance till the completion of the criminal case.

12. In the case in hand, the charge memo that has been served on the petitioner would show that it is based on the same/similar set of facts, for which, the petitioner is undergoing criminal trial. In fact, the list of witnesses relied upon in the disciplinary proceedings is the same set of witnesses, who are going to be examined on the side of the prosecution in the criminal trial. In view of the same, if the



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petitioner is made to undergo the disciplinary proceedings, it will seriously prejudice the petitioner and her defence will be exposed. Therefore, the disciplinary proceedings will have to be necessarily kept in abeyance till the completion of the criminal case.

13. In the result, this writ petition is disposed of with a direction to the respondents to keep the disciplinary proceedings in abeyance till the completion of the criminal case pending in Special C.C.No.5 of 2019 on the file of the Chief Judicial Magistrate/Special Court for Prevention of Corruption Act Cases, Dharmapuri. No costs. Consequently, the connected WMP is closed.

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To

- 1.The Chief Judicial Magistrate/Special Court for Prevention of Corruption Act Cases, Dharmapuri.
- 2.The Conservator of Forests, Dharmapuri Circle, Dharmapuri. 636705. Dharmapuri District.
- 3.The Forest Engineer, Forest Engineering Division, Harur, Dharmapuri District.
- 4.The Inspector of Police, Vigilance & Anti Corruption, Krishnagiri. Krishnagiri District.

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