



W.P.No.21452 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.21452 of 2022
W.M.P.No.20452 of 2022

S.Venkatachalapathy

...Petitioner

-Vs-

The Chairman and Managing Director,
Tamilnadu Minerals Limited,
No.31, Kamarajar Salai,
Chepauk, Chennai-600 005.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of the Respondent culminating in charge memo in R.C.No.21319/ML-II/2005 on the file of the respondent dated 26.07.2022 and to quash the same.

For petitioner

: Mr.C.Emalias

For respondent

: Mr.B.Vijay,
Additional Government Pleader



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ORDER

This writ petition has been filed challenging the charge memo dated 26.07.2022 on the file of the respondent.

2. The petitioner is working as Senior Project Officer under the respondent corporation. Already the petitioner was served with charge memo and he was imposed with punishment. Aggrieved by the same, the petitioner filed writ petition in W.P.(MD).No.3252 of 2010 the said order of punishment was quashed by an order dated 24.09.2014 and the same was confirmed by the judgement dated 11.07.2017 passed in W.A.(MD).No.149 of 2017 by dismissing the appeal preferred by the respondent corporation. Thereafter, the respondent had issued order for recovery of sum of Rs.14,37,514/- as against the petitioner. The petitioner challenged the said order of recovery by filing writ petition in W.P.No.32808 of 2018 and this Court passed an order dated 06.06.2022 and quashed the proceedings issued for recovery of alleged loss from the salary of the petitioner.



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3. The respondent have developed animosity against the petitioner and issued charge memo alleging that while working as Senior Project Officer in Sivagangai, the petitioner not collected sample block from the lease applied new areas in Madurai and Tirunelveli Districts. The petitioner made false allegations to the respondent to the effect that there is no possibility to collect sample in non-leasehold areas and thereby violated Rule.3.29 (IV, XXII) of TAMIN Conduct, Discipline and Appeal.

4. The learned counsel for the petitioner would submit that the charge memo issued with malafide intention, since already order against the petitioner was quashed by this Court. He also submitted that the petitioner was alleged that he failed to obey the instructions issued to him by order dated 3011.2020, is unsustainable as the said instructions viz., to collect samples from the area over which the respondent corporation has applied for mining lease is in violation of Section 4(1) of the Mines and Minerals Development and Regulation Act, 1957, which prohibits any person from undertaking any reconnaissance, prospecting or mining operations in any area except in accordance with the prospecting license granted under the



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Act. The act of taking samples without proper prospecting license is offence Under Section 21(4) of MMDR 1957 and the Government of Tamilnadu vide G.O.Ms.No.114 Industries (NMC-I) Department dated 18.09.2016 had issued notification to the effect that the police personnel not below the rank of Inspector of Police to exercise jurisdiction Under Section 21(4) of MMDR Act, 1957 and the said offence is punishable with imprisonment upto 2 years or fine or with both.

5. The learned counsel for the respondent filed counter and stated that while admitting the writ petition, this Court granted interim order that the respondent can proceed with enquiry and shall not pass final order. Now, as per the interim order, the respondent was permitted to conduct enquiry. Now, the enquiry has been over. Only because of the pendency of the interim order, the respondent is not able to pass final orders. Further, if the respondent specifically alleged malafied as against the petitioner, he ought to have impleaded the respondent in the personal capacity and also should have made specific allegations in the personal capacity. That apart, the present charges are nothing to do with earlier charges and no delay in



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issuance of charge memo. Ordinarily a writ petition should not be entertained against a mere show cause notice or charge sheet is that at that stage the writ petition may be held to be premature. He relied upon the judgement in the case of ***Union of India and another -vs- Kunisetty Satyanarayana*** reported in ***(2006) 12 SCC 28*** held that a mere charge sheet or show cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. Further in the case of ***Secretary, Ministry of Defence and others -vs- Prabhash Chandra Mirdha*** reported in ***2012 (11) SCC 565*** held that the law does not permit quashing the charge sheet in a routine manner. In case the delinquent employee has any grievance in respect of the charge-sheet he must raise the issue by filing a representation and wait for the decision of the disciplinary authority thereon. In case the charge sheet is challenged before a court/tribunal on the ground of delay in initiation of disciplinary proceedings or delay in concluding the proceedings, the court/tribunal may quash the charge-sheet.



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6. Therefore, this Court cannot find any infirmity or illegality in the charge memo issued by the respondent dated 26.07.2022. That apart, already enquiry was conducted and they are about to pass final orders. At this stage, the charge memo cannot be quashed. This writ petition is devoid of merits and liable to be dismissed. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

29.02.2024

Index : Yes/No
Internet: Yes/No
gvn

To

The Chairman and Managing Director,
Tamilnadu Minerals Limited,
No.31, Kamarajar Salai,
Chepauk, Chennai-600 005.



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