IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.33781 of 2023

Mrs.Pritha Ponraj ... Petitioner

Vs.

1.The Director,
Directorate of Disciplinary Action Committee,
The Institute of Chartered Accountants of India
2nd and 3rd Floor (Regulatory Block) ICAI Bhawan,
52, 53 & 54, Maharishi Valmiki Marg,
Near Karkarduma Court Complex,
Vishwas Nagar Extention,
New Delhi – 110 002.

2.Union of India,
Represented by Secretary, Revenue,
Ministry of Finance, North Block,
New Delhi.

3.Mr.K.Venkatraman ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to hear and dispose the complaint registered in PR/421/2022/DD/284/2022 dated 14.05.2022 on the file of 1st respondent on any early date.

For Petitioner	: Mr.R.Amizhdhu
For R1	: Mr.J.Hari Krishna Senior Panel Counsel
For R2	: No Appearance
For R3	: Mr.M.Sarathkumar

ORDER

The Writ of Mandamus has been instituted to direct the 1st respondent to hear and dispose of the complaint registered on 14.05.2022.

2. The grievance of the writ petitioner is that she made a complaint against the 3rd respondent before the 1st respondent on 14.05.2022 and even after completion of more than one and half years, the 1st respondent has not even formed a *prima facie* opinion for the purpose of conducting an enquiry regarding the allegations of misconduct against the 3rd respondent.

3. The learned counsel appearing on behalf of the 1st respondent has no convincing reasons for causing such a long delay in dealing with the complaint filed by the aggrieved persons against the members of the Chartered Accountants of India.

4. Such complaints received must be dealt with in accordance with law within a reasonable period of time. Even for forming *prima facie* opinion, if it takes two years, this Court is afraid, how long it will take for completing an enquiry and to pass final orders. Based on the complaints received *prima facie* opinion is to be formed by the authorities competent for the purpose of conducting an enquiry. Vexatious complaints no doubt needs to be rejected. However, if any substance noticed in the complaint, then such complaints are to be taken up for enquiry and thereafter, opportunities are to be afforded to all the parties for the purpose of conducting an inquiry and to pass final orders.

5. In the present case, the delay of about 2 years in forming a *prima facie* opinion is unreasonable and a person who submits complaint to the Chartered Accountants will get frustrated. Therefore, the 1st respondent has to form *prima facie* opinion on receipt of any complaint within a reasonable period one or two months and if there are materials available, then an inquiry is to be conducted in the manner contemplated and by following the procedures.

6. For forming *prima facie* opinion all the materials may not be required. The entertainability of the complaint is to be decided at the first instance. For deciding the entertainability, it would be sufficient if the nature of the complaint, the misconduct alleged and the relevant documents enclosed. If *prima facie* materials along with the allegations are identified, then a notice is to be issued to the respondents and an inquiry is to be conducted.

7. It is brought to the notice of this Court that prima facie opinion has already been formed and it was placed before the Committee to take final decision. Therefore, the 1st respondent is directed to complete the entire process and pass final orders on merits and in accordance with law within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition stands disposed of. No costs.

22.04.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

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2.The Secretary, Revenue,
Union of India,
Ministry of Finance, North Block,
New Delhi.

S.M.SUBRAMANIAM, J.

Jeni

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