



WP(MD) No.3512 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.04.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.3512 of 2024

and

W.M.P(MD)No.3476 of 2024

R.Senthil Kumar

... Petitioner

Vs.

The Government of Tamil Nadu

Represented by its Principal Secretary to Government,

Home (Pol.2) Department,

Secretariat,

Chennai – 9.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records relating to the impugned order of the respondent in Letter No.e-29/Pol.2/2024-7, dated 06.01.2024 and quash the same.



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For Petitioner : Mr.N.Dilipkumar

For Respondent : Mr.M.Lingadurai

Special Government Pleader

ORDER

The present writ petition has been filed seeking a Writ of Certiorari calling for the records relating to the impugned order of the respondent in Letter No.e-29/Pol.2/2024-7, dated 06.01.2024 and quash the same.

2. Heard Mr.N.Dilipkumar, learned counsel for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader appearing for the respondent.

3. The learned counsel for the petitioner submitted that the petitioner was facing a criminal case in C.C.No.807 of 2019 and by virtue of the judgment, dated 16.10.2023, the trial Court convicted the petitioner and other accused. However, the petitioner challenged the same by way of filing criminal appeal in CrI.A.



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(MD)No.116 of 2023 and the same is pending. However, the order of conviction itself has been stayed by virtue of the order passed in CrI.R.C.(MD)No.83 of 2024 on 01.02.2024. When the suspension is pending, the petitioner has been given with a impugned show cause notice for removing the petitioner from service, in view of the conviction suffered by him.

4. Since the order of conviction has been stayed and the matter is *subjudice* in view of the pending criminal appeal, the show cause notice is liable to be set aside.

5. The learned Special Government Pleader submitted that as per the Rules, the petitioner is expected to offer his explanation. Even if the petitioner offers his explanation, no orders can be passed. The conviction has already been stayed. The charge memo has been issued only because the petitioner was convicted. As of now there is no enforceable order of conviction.



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6. In view of the said reasons, this writ petition is **allowed** and the impugned Letter No.e-29/Pol.2/2024-7, dated 06.01.2024 issued by the respondent is set aside. However, the respondent is at liberty to reissue the charge memo for the same reasons, depending upon the result of the Criminal Appeal or Criminal Revision Petition filed by the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

16.04.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No

RM



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To

The Principal Secretary to Government,
Government of Tamil Nadu
Home (Pol.2) Department,
Secretariat,
Chennai – 9.



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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.3512 of 2024

Dated:
16.04.2024