



WP(MD)No.7146 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.7146 of 2021
and
WMP(MD)No.5464 of 2021**

B.Meenakshi Sundaram

Vs

... Petitioner

1.The Agricultural Production Commissioner,
and Principal Secretary to Government,
Agriculture Department,
Fort St.George,
Chennai.

2.The Commissioner of Agriculture,
Chepauk, Chennai – 5.

3.The Secretary,
Agricultural Department,
Chennai.

...Respondents

[R-3 sumo motu impleaded vide order
dated 19.11.2024.]

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a writ of mandamus on the 1st respondent to review the charge memo issued by his proceedings in No.DCS1/3/105569/2010-1, dated 03.09.2015 based on the Government Circular No.14353/P&AR(Per.N)/93-1, dated 11.03.1993 and covert the charges as one arising out of Rule 17(a) of the Tamil Nadu Conduct and Disciplinary Rules.



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For Petitioner : Mr.K.Prabakaran

For Respondents : Mr.GV.Vairam Santhosh,

Additional Government Pleader

ORDER

The petitioner, a Deputy Director (Seed Inspection), Agriculture Department was issued with a charge memo on 03.09.2015 under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules. The petitioner has filed this writ petition in the year 2021 seeking a writ of mandamus to the 1st respondent to review the charge memo issued as against him in DCS1/3/105569/2010-1 dated 03.09.2015, based on the Government circular No.14353/ P&AR (Per.N) dated 11.3.1993 and to convert the charges into Rules 17(a) the Tamil Nadu Civil Service (Discipline and Appeal) Rules that the allegations as against the petitioner will not fall under the categories mentioned therein, warranting action under Rule 17(b).

2.This Court by order dated 30.03.2021 admitted this writ petition and ordered notice. The learned Additional Government Pleader had taken notice on behalf of the respondents. Thereafter this writ petition was listed for hearing on 15.04.2024 and 05.06.2024 and at the request of this petitioner, it was adjourned. When this case was listed before this Court again on 18.11.2024, the learned Counsel for the petitioner sought permission of this Court to withdraw the writ petition.



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3.The learned Additional Government Pleader appearing for the respondents submits that the enquiry has now been completed and proven minute has been placed before the disciplinary authority for passing necessary orders. The petitioner had involved in misconduct and misappropriation in connivance with others and these charges as against the petitioner are grave in nature and as per the circular relied on by the petitioner, if major penalty is warranted based on the gravity of charges, it has to be proceeded under Rules 17(b) of the Rules. Since the charges against the petitioner are grave in nature, it warrants major penalty, if proved. Therefore, the respondents have rightly proceeded under Rule 17(b) as per the circular referred to by the petitioner.

4.This Court considered the rival submissions made and also perused the materials placed on record.

5.The petitioner is facing the departmental proceedings for the following charges:

“Charge 1: That the petitioner had not verified the licence of Thanthondi Agriculture Co-Operative Society, who had requested the petitioner to allocate 40 metric tons of urea and 20 metric ton of DAP. This petitioner is said to have directed TANFED by his communication dated 21.08.2008 to dispatch the same to the society which did not fall within his



territorial jurisdiction and had not verified whether the communication marked to the Assistant Director (Quality Control), Karur had been received or not. As such he had misused his official capacity as government servant.

Charge II. The petitioner by misusing his official capacity had facilitated and enabled Chellamuthu, the Special Officer, Thanthondri Agriculture Co-Operative Society to draw 675 metric tons of urea and 235 metric tons of DAP worth Rs. 54, 06,906.30 from TNFED which had been sold at subsidised price. The fertilizers were not said were not sold to the farmers and had been sold at commercial price for Rs.1,87,70,167.50, as a result has gained a sum of Rs.1,33,64,261.20.

Charge III. The petitioner as per the Fertilizer Control Order 1985 is empowered to regulate the stock, sale of fertilizers by the dealers by his visits and verifying the document, cancel the licence too. As TNFED falls within is territorial jurisdiction but does not fall within his administrative domain, however the petitioner had failed to verify the document as per the Fertilizer Control Order 1985 and this act amount violation of the control order.

Charge IV. The petitioner had failed to inform at the initial stage itself to the Assistant Director (Quality Control), Karur regarding the procurement of 675 metric tons of Urea and 235 metric tons of DAP for Rs.54,06,906 at subsidised rate



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which had been supplied to one concern. This very act of not informing the Assistant Director, Karur had enabled the Special Officer of the Society to sell the fertilizers at commercial rate and had obtained Rs.1,87,70,167/- and had made a profit of Rs.1,33,64,261.20.

Charge V.The petitioner is responsible for the alleged misappropriation by the Society and he was arrested and charge sheeted by the Police. The petitioner had failed to act with the utter devotion and responsibility which attract Rule 20(1) and 2(i) of the Tamil Nadu Subordinate Service Rules.”

6.The petitioner by misusing his official capacity has diverted the fertilizers meant for the farmers by selling the same for commercial activities and illegally gained a sum of Rs.1,33,64,261/- in the year 2008. For this commission of offense, a criminal case was registered in Crime No.1 of 2011 for the offence under Sections 406, 408, 467, 471,477(A) r/w 120(b) of IPC. After investigation, the investigating agency filed a final report before learned Judicial Magistrate No.1 Kulithalai in CC No.67 of 2012. It appears that as against the CC.No.67 of 2012 the petitioner has filed a quash petition in CrIOP(MD)No.1589 of 2014 and it was allowed in his favour, however, in the appeal filed by the State before the Hon'ble Supreme Court, it was reversed and therefore, the petitioner is also facing criminal prosecution.



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7.The fact remains that the criminal prosecution initiated in the year 2012 is pending for more than a decade. The petitioner was placed under suspension in the year 2014. The petitioner has challenged the suspension order in WP(MD)No.17303 of 2014 and it was allowed by order dated 19.12.2014 by setting aside the suspension order and it was confirmed in the WA(MD)No.212 of 2015. Subsequently the suspension order was revoked on 28.12.2015 and he was reinstated into service on 31.12.2015. The charge memo was issued in the year 2015. The petitioner had filed a writ petition before this Court challenging the charge memo in WP(MD)No.21368 of 2016 and it was subsequently withdrawn by this petitioner on 03.03.2021. Thereafter, this petitioner has filed this writ petition on 30.04.2021 with the above prayer. In the meantime he attained the age of superannuation and not allowed to retire from service. Now the department claims that proven minutes are filed in the departmental proceedings and necessary orders are to be passed. Considering the charges levelled as against the petitioner, this Court is not inclined to grant the relief sought for by the petitioner.

8.The government is providing fertilizers to the poor farmers at subsidised rates. The officer / the petitioner, who is supposed to ensure the fertilisers reach the farmers, had sold the fertilisers in the open market. By doing so the petitioner is said to have gained a sum of Rs.1,33,64,261/- in



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between the year 2008 and 2010. For these charges, the department has issued the charge memo only in the year 2015 and the departmental proceedings is not yet completed, even after nine years passed. The criminal prosecution initiated in the year 2011 is pending in CC.No.67 of 2012 for the past twelve years.

9.This case is a glaring example, the manner in which the system has been used by the corrupt officials. They defeat the very object of initiation of the departmental proceedings and the criminal prosecutions. This Court is of the view that some of the officers in the department have facilitated the petitioner and has delayed the departmental proceedings. Even now, the departmental proceedings initiated in the year 2015 is pending. Therefore, this Court *suo motu* impleads the Secretary, Agriculture Department, Chennai and directs him to look into this issue and to take appropriate action as against the Officers, who have failed in their duty in initiating and in concluding the departmental proceedings in time, as prescribed by the government from time to time.

10.It appears that initially the final report was filed before the Judicial Magistrate Court No.I, Kulithalai in CC.No.67 of 2012 and subsequently it has been transferred to the Judicial Magistrate Court No.I, Karur and renumbered as CC.Nos. 358 of 2016 and 359 of 2016. The Hon'ble Supreme Court has set aside the order passed by this Court in the quash petition in



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CrIOP(MD)No.1589 of 2014 as early as on 09.12.2016, despite the same, the criminal prosecution is pending.

11. Therefore this Court directs the learned Principal District Judge, Karur, to look into this issue and if there is unnecessary delay in completing the trial in CC.Nos. 358 of 2016 and 359 of 2016 on the file of the Judicial Magistrate Court No.II, Kaur and if the Judicial Magistrate concerned is not capable of completing the trial, the cases in CC.Nos.358 and 359 of 2019 shall be transferred to some other Court and it shall be disposed of in a time bound manner by conducting trial on day to day basis.

12. This writ petition is disposed of in the above terms. No costs. Consequently connected miscellaneous petition is closed.

19.11.2024

Internet : Yes / No

DSK



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To

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1.The Agricultural Production Commissioner,
and Principal Secretary to Government,
Agriculture Department,
Fort St.George,
Chennai.

2.The Commissioner of Agriculture,
Chepauk, Chennai – 5.

3.The Secretary,
Agricultural Department,
Chennai.

Copy to

1.The Principal District Judge,
Karur.

2.The Judicial Magistrate No.II,
Karur.



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B.PUGALENDHI.J.,

DSK

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