



WP(MD). No.13189 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 20/06/2024

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The Hon`ble Ms.Justice R.N.MANJULA

**WP(MD). No.13189 of 2024 and
WMP(MD) No.11673 of 2024**

M.Prabakar

... Petitioner

Vs

1. The Government of Tamilnadu,
Rep. by Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai..

2. Tribunal For Disciplinary Proceedings,,
Rep. by Ms. Kannagi,
Commissioner For Disciplinary Proceedings,
No. 5/1b, Vinayaganagar,
Madurai..

... Respondents

PRAYER :-Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the entire records on the file of the 2nd respondent herein pursuant to the proceedings No. 18/2009 dated 08.11.2023 and all other proceedings conducted by the 2nd respondent in pursuance of the aforementioned impugned notices dated 30.11.2023, 12.12.2023, 09.01.2024, 02.02.2024, 27.02.2024, 12.03.2024, 22.04.2024,



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26.04.2024, 15.05.2024 and 03.06.2024 and to quash the same and to direct the 2nd respondent herein to await the outcome of Review Petition preferred by the petitioner is awaited for CMP Number and Review Petition SR No. 91889.

For Petitioner : Mr.M. Ravi,
For Respondents : Mr.M.Ramesh
Government Advocate

ORDER

By consent, the writ petition itself is taken for final disposal.

2. Heard Mr.M.Ravi, learned counsel for the petitioner and Mr.M.Ramesh, learned Government Advocate for the respondents.

3. The petitioner has filed this writ petition challenging the impugned proceedings of the 2nd respondent, which were issued for the appearance of the petitioner pursuant to the disciplinary action initiated and pending against the petitioner.



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4. The learned counsel for the petitioner submitted that the 2nd respondent, who is the Commissioner for Tribunal for disciplinary proceedings is in the cadre of District Revenue Officer. The petitioner being an Additional Director, is a higher officer than the 2nd respondent and he should not be compelled to appear before an officer, who is below the rank of the petitioner. Even according to the procedure to be followed for appointment of Enquiry Officer during disciplinary proceedings and G.O.Ms.No.47 dated 29.04.2011, the officer, against whom, disciplinary action is conducted, should not be allowed to subject himself to an enquiry before an enquiry officer junior to him or below his rank.

5. The learned counsel for the petitioner submitted that he has already given a representation in this regard. However, the same has not been considered so far. While so, the 2nd respondent has issued a notice calling the petitioner for the enquiry before the tribunal.

6. There cannot be any quarrel on the point that the petitioner is a superior officer in the rank of Additional Director. Since the petitioner



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has already given a representation and the same has not been considered so far and the impugned proceedings have been issued by the 2nd respondent on various occasions for the appearance of the petitioner pursuant to the disciplinary proceedings initiated against him. The 2nd respondent is an officer below the rank of the petitioner and on that score, the impugned proceedings calling for the petitioner before the 2nd respondent is liable to be set aside.

7. Accordingly, the writ petition is allowed and the impugned proceedings of the 2nd respondent is set aside and the 1st respondent is directed to consider the representation of the petitioner and pass appropriate orders by appointing any officer, who is senior to the petitioner or any District Judge to conduct the enquiry. No costs. Consequently connected Miscellaneous Petition is closed.

20.06.2024

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TO

1. The Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai..

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R.N.MANJULA,J

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**ORDER
IN
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Date : 20/06/2024