



W.A.(MD) No.705 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD) No.705 of 2018
and
C.M.P(MD)No.4045 of 2018**

M.Rajasekaran

....Appellant/Petitioner

-VS-

- 1.The Revenue Divisional Officer,
Kovilpatti, Thoothukudi District.
 - 2.The District Collector,
Thoothukudi District.
 - 3.Mr.Kallapiran,
The Enquiry Officer/Special Tahsildar,
(Social Security Scheme),
Kovilpatti, Thoothukudi District.
 - 4.The Inspector,
Department of Vigilance & Anti Corruption,
Thoothukudi.
- ...Respondents/Respondents



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WEB COPY Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 06.02.2018, passed in W.P.(MD) No.6382 of 2011.

For Appellant : Mr.G.Prabhu Rajadurai

For R1, R2 & R4 : Mr.A.Baskaran

Additional Government Pleader

J U D G M E N T

[Judgment of the Court was made by A.D.JAGADISH CHANDIRA, J.]

This Writ Appeal has been filed by the appellant/writ petitioner challenging the order of the learned Single Judge dismissing the writ petition filed seeking to direct the respondents 1 to 3 to defer the Departmental Proceedings against the petitioner in pursuant to the proceedings in Na.Ka.A1/5485/2008, dated 29.04.2011 on the file of the first respondent till the conclusion of the criminal case in Special Case No.10 of 2009 on the file of the Chief Judicial Magistrate, Thoothukudi.



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2. For the sake of convenience, the parties are referred to according to their litigative status before the writ Court.

3. The learned counsel appearing for the appellant would submit that the criminal case was registered against him under the provisions of the Prevention of Corruption Act, 1988 and the criminal case is pending. On account of the registration of the criminal case, the writ petitioner was placed under suspension and subsequently, a charge memo was issued against him in proceedings dated 17.08.2010. In the departmental proceedings, 16 witnesses were cited. The departmental proceedings and the criminal case are identical on similar set of facts, the witnesses are also same in both proceedings and the charge in the criminal case against the petitioner is grave in nature, which involves the complicated question of law and facts and thereby, fearing that if the departmental proceedings are allowed to continue, it would expose the defence of the petitioner, he has sought for deferring the departmental proceedings, whereas, the learned Single Judge had dismissed the writ petition. Challenging the same, the present writ appeal has been filed.



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4. Per contra, the learned Additional Government Pleader appearing for the respondents would submit that the petitioner was arrested pursuant to a trap case and charged under the provisions of the Prevention of Corruption Act, 1988. He would further submit that subsequent to the dismissal of the writ petition, departmental enquiry had been conducted and out 16 witnesses, 15 witnesses were examined and parallely, in the criminal proceedings 21 witnesses were cited and out 21 witnesses, 17 witnesses were examined and three witnesses have been dispensed with and the case is posed for examination of the Investigating Officer and at this stage, the grounds raised by the petitioner that his defence will be exposed will not survive and thereby, he would seek for dismissal of the writ appeal.

5. The learned Additional Government Pleader appearing for the respondents further submitted that after examination of most of the witnesses, the earlier Enquiry Officer had retired and subsequently, another Enquiry Officer has been appointed and the petitioner has also filed W.P(MD)No.6621 of 2024 challenging the appointment of the new Enquiry Officer and this Court by order dated 26.03.2024 has granted interim stay of all further proceedings and the respondents are taking steps to vacate the interim order.

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6. We have heard the learned counsel appearing for the appellant and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

7. Though it is stated that the charges and the witnesses in the criminal case and the departmental proceedings are almost similar, it is seen that both the proceedings have almost attained finality and in such circumstances, the ground raised by the petitioner will not survive at this stage and thereby, no purpose will be served by keeping this appeal pending. Further, it is also reported that a new enquiry officer had been appointed in the departmental proceedings and this Court has also by order dated 26.03.2024 has granted interim stay.

8. Accordingly, this writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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[A.D.J.C., J.] [K.R.S., J.]
24.06.2024

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