



WEB COPY



W.P(MD)No.20634 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.20634 of 2024

and

W.M.P(MD)Nos.17496 & 17497 of 2024

S.Kulanthaivel

... Petitioner

Vs.

1.The Director of Municipal Administration,
O/o.the Directorate of Municipal Administration,
Chepauk, Madurai – 600 005.

2.The Commissioner,
Madurai Corporation,
Madurai.

3.Mr.L.Madhu Balan,
Commissioner of Tuticorin Corporation,
Tuticorin Corporation,
Tuticorin.

4.Tmt.K.Malathi,
Executive Engineer(Planning),
Madurai Corporation,
Madurai.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, to call for the records in pursuant to the impugned Charge memo issued by the 1st respondent in his Proceedings No.Na.Ka.No. 5572/2024/Pa.Ni.3-2, dated 26.06.2024 and quash the same.



W.P(MD)No.20634 of 2024

For Petitioner : Mr.M.Saravanakumar
For Respondents : Mr.S.S.Madhavan
Government Advocate for R1
Mr.S.Vinayak for R2
* * * * *

ORDER

The instant writ petition has been filed by an Assistant Engineer of the Madurai Corporation, challenging a charge memo issued to him under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rule, 1955, dated 26.06.2024.

2.According to the learned Counsel appearing for the writ petitioner, the charges against him for granting building plan approval in violation of the building rules of the Corporation. The learned Counsel appearing for the petitioner submits that the scrutiny and payment for the building plan approval were completed before he had taken charge and therefore, merely because plan approval was granted by him, he cannot be issued with the charge memo.

3.Per contra, the learned Standing Counsel appearing for the respondent corporation contended that the petitioner was in service at the time of scrutiny of the applications.



W.P(MD)No.20634 of 2024

4.It is clear that there is a factual dispute with regard to the fact whether the petitioner was involved in the scrutinisation of the application and granting of approval for building plan or not. The powers of the Court to interfere with the charge memo is very limited.

5.The judgment of the Hon'ble Supreme Court of *State of Orissa and another Vs. Sangram Keshari Mishra and another* reported in *2010 13 SCC 311* has held that when the writ petition has been filed, challenging the charge memo on the ground that it is based upon erroneous fact, it is for the disciplinary authority to decide the same. In view of the above said facts, the writ petition stands dismissed with liberty to the petitioner to raise all these issues during the enquiry proceedings, in case, if the Corporation proceeds.

6.In view of the judgment of the Hon'ble Supreme Court, there are no merits in the writ petition. Accordingly, this writ petition stands dismissed with the observations as stated above. No costs. Consequently, connected miscellaneous petitions are also closed.

03.09.2024

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



W.P(MD)No.20634 of 2024

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To

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R.VIJAYAKUMAR, J.

RJR

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