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W.P No.23124 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2025

CORAM

THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

Writ Petition No.23124 of 2024

Suman

S/o.R.K.Swami

ACIO-II/Exe PIS No.220923

Sub Inspector of Police-(now Under suspension)

Formerly Bureau of Immigration,

Chennai International Airport,

No.6, PallaStreet, Vettavalam Village,

Thiruvannamalai District

... Petitioner

..Vs..

1.The Deputy Inspector General of Police,  
Vellore Range, Vellore.

2.The Deputy Superintendent of Police,  
Thiruvannamali Town Sub-Division,  
Thiruvannamalai District.

3.Foreigners Regional Registration Officer & Disciplinary Authority,  
Bureau of Immigration,  
No.26, SastriBavan, Haddows Road,  
Nungambakkam, Chennai – 600 006.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus to defer the 1<sup>st</sup> respondent from conducting the disciplinary proceedings vide charge memo P.R.No.26/2024



W.P No.23124 of 2023

against the petitioner pending disposal of the criminal proceedings in Crime No.14/2023 on the file of the District Crime Branch, Thiruvannamalai.

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For Petitioner : Mr.S.Veeraraghavan

For Respondents : Mr.R.U.Dinesh Raj Kumar,  
Additional Government Pleader  
For RR1 & 2

### **ORDER**

The present writ petition has been filed to defer the 1<sup>st</sup> respondent from conducting the disciplinary proceedings vide Charge Memo P.R.No.26/2024 against the petitioner pending disposal of the criminal proceedings in Crime No.14/2023 on the file of the District Crime Branch, Thiruvannamalai.

2. The learned counsel for the petitioner would submit that, he is directly appointed as Sub Inspector of Police in 2017. The learned counsel further submits that under the false charge of assisting his wife in the competitive exam conducted for the post of Sub Inspector of Police, he was issued with a charge memorandum dated 27.02.2024, and also a criminal complaint was also registered against him on 30.09.2023 in Crime No.14/2023. It is the specific submission of the petitioner that if the



WEB COPY

disciplinary proceedings is allowed to continue then, his valuable rights of the defence before the criminal Court would be jeopardized. Therefore, he prays an order to stay the departmental proceedings till the completion of the criminal proceedings initiated based upon the Crime No.14/2023.

3. Per contra, the learned Additional Government pleader would vehemently submit that pendency of the criminal proceedings would in no way bar for the respondent to proceed with the disciplinary proceedings, and would invite the attention of this Court in respect of G.O.(Ms) No.66, Human Resources Management (N) Department, dated 06.07.2022 and also referred the Judgment of the Hon'ble Supreme Court in the case of ***Re State of Rajasthan & others v. Phool Singh reported in 2022 SCC Online SC 1140.***

4. I have given my anxious consideration of either side submission.

5. It is well settled principle of law that mere pendency of the criminal proceedings is not a bar for the disciplinary authority to proceed with a departmental enquiry. As we all know, the proof before the criminal Court is beyond reasonable doubt whereas, the proof before the disciplinary



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proceedings is preponderance of probabilities. In this connection it is appropriate to refer the Judgment of the Hon'ble Supreme Court in the case of

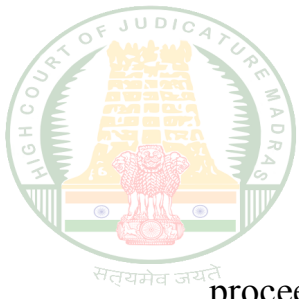
***Re State of Rajasthan & others v. Phool Singh reported in 2022 SCC***

***Online SC 1140*** in para 10 as follows:

*“10. ... A departmental proceeding is different from a criminal proceeding. The fundamental difference between the two is that whereas in a departmental proceeding a delinquent employee can be held guilty on the basis of “preponderance of probabilities”, in a criminal court the prosecution has to prove its case “beyond reasonable doubt”. In short, the difference between the two proceedings would lie in the nature of evidence and the degree of its scrutiny. The two forums therefore run at different levels. For this reason, this Court has consistently held that merely because a person has been acquitted in a criminal trial, he cannot be ipso facto reinstated in service.”*

6. Apart from the above, as per G.O.Ms.No.66, dated 06.07.2022 the disciplinary authority can conduct disciplinary proceedings, parallelly along with the criminal proceedings.

7. At this juncture, the learned counsel for the petitioner would raise objection that the respondent-Dept is not proceeding with the enquiry by following the natural justice.



W.P No.23124 of 2025

WEB COPY

8. However, such submission cannot be taken in the present proceedings as the only ground urged by the petitioner in the present writ petition is if disciplinary proceedings is not stayed, he can't have effective defence, as his defence become known to the prosecution. Therefore, since defence is effective, the same is in contrary to the above settled legal principles.

9. In such view of the matter, this Court do not find any merits in the present writ petition. Hence, the writ petition is dismissed. No costs.

19.06.2025

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Index : Yes

Internet : Yes

Neutral Citation Case: Yes/No

To:

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Thiruvannamali Town Sub-Division,  
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5/6



WEB COPY



W.P No.23124 of 2024

**C.KUMARAPPAN, J.**  
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W.P.No.23124 of 2024

19.06.2025