

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31<sup>ST</sup> DAY OF MAY, 2018

BEFORE

THE HON'BLE MR. JUSTICE A S BOPANNA

WRIT PETITION NO.17671/2018 (S-KSRTC)

BETWEEN:

SRI FAROOQ KHAN W  
S/O WAJID KHAN  
AGED ABOUT 33 YEARS  
JUNIOR ASSISTANT-CUM-  
DATA ENTRY OPERATOR  
KSRTC, B.C.ROAD DEPOT  
PUTTUR DIVISION  
PUTTUR-574 201

... PETITIONER

(BY SRI: MUKKANNAPPA S B, ADV)

AND:

1. THE MANAGING DIRECTOR  
KSRTC, CENTRAL OFFICES  
SHANTHINAGAR  
BENGALURU-560 027.
2. THE DIVISIONAL CONTROLLER  
KSRTC, PUTTUR DIVISION  
PUTTUR-574 201
3. THE ENQUIRY OFFICER/  
RETIRED PUBLIC PROSECUTOR

KSRTC, PUTTUR DIVISION  
PUTTUR-574 201

... RESPONDENTS

(BY SRI:T HAREESH BHANDARY, ADV FOR R1-3)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DATED 12.4.2018 PASSED BY TEH R-3 IN CASE NO. T 2832/ 2016 (4852/2015) AT ANNEX-N TO THE W.P; DIRECT THE RESPONDENTS TO POSTPONE THE ENQUIRY TILL THE CROSS EXAMINATION OF CW1 IS COMPLETED IN C.C. NO.723/2016 PENDING ON THE FILE OF III ADDL. CIVIL JUDGE (JR. DIVISION) AND JMFC, MYSURU AND THEREAFTER PERMIT THE PETITIONER TO CROSS EXAMINE MW2 IN THE DOMESTIC ENQUIRY AND ETC.,

THIS WP COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT PASSED THE FOLLOWING:

O R D E R

Sri.T Hareesh Bhandary, learned counsel to accept notice for respondent Nos.1 to 3 and file vakalath in four weeks.

2. The petitioner is before this Court seeking that the order dated 12.04.2018 passed by the third respondent in case No.T 2832/2016(4852/2015) at Annexure-N be quashed and also direct the respondents to postpone the enquiry till the cross examination of CW1 is completed in CC No.723/2016. The

petitioner is also seeking to issue mandamus to the Court below to dispose of CC No.723/2016 in a timeframe.

3. The petitioner, no doubt is before this court making out a grievance that, if he cross-examine MW.2 in the enquiry proceedings before he is cross examined in the criminal proceedings, wherein he has tendered evidence as CW.1, the case of the petitioner in enquiry proceedings would be prejudiced. Since the enquiry officer did not provide such accommodation to the petitioner, the petitioner is before this Court seeking for appropriate directions.

4. When the petition is taken up for consideration, learned counsel for the petitioner would submit that due to passage of time, presently MW2 who was examined as CW.1 in the criminal proceedings has already been cross-examined.

5. If that be the position, at this juncture, the petitioner has no impediment to cross-examine MW.2. Therefore, prayer as made in the petition would not survive for consideration at this point. However, it is made clear that since the enquiry

officer has discharged MW.2 at the earliest point and presently the petitioner due to facts and circumstances is willing to cross-examine MW.2, such request shall be made by the petitioner before the enquiry officer to recall MW.2 and permit the petitioner to cross-examine him. If such request is made, the enquiry officer shall consider and permit the petitioner to do so.

6. In so far as the direction sought to the Court below to dispose of CC No.723/2016, I am of the opinion that it would not be necessary for this Court to issue mandamus, since this Court is confident that judicial officer would keep in view his Board and take up the matters depending on its priority. In any event, liberty is reserved to the petitioner to make appropriate request before the Court below in that regard.

In terms of the above, the petition stands disposed of.

Sd/-  
JUDGE

\*bgn/-