

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2015

CORAM :

THE HON'BLE MR.JUSTICE D.HARIPARANTHAMAN

Writ Petition No.11895 of 2015
and
M.P.No.1 of 2015

P.Govindaswamy

... Petitioner

Vs.

The Tamil Nadu Civil Supplies Corporation,
rep. by its Regional Manager, Tiruvallur Region,
Tiruvallur - 602 001

... Respondent

Prayer : Writ Petition, filed under Article 226 of the Constitution of India seeking for issuance of Writ of Mandamus, forbearing the respondent from initiating any fresh proceedings with regard to the shortage of seized rice at the Gummidipundi godown as mentioned in the order of retirement dated 30.07.2008, as per the judgment, dated 04.08.2014, of this Court made in Para 12 of W.A.No.112 of 2013, with further direction to the respondent to refund the sum of Rs.1,36,329/- withheld by the respondent by virtue of the said order of this Court.

For Petitioner : Mr. S.Venkataraman

For Respondent : ***Mr.L.P. Shanmugasundaram**
Special Government Pleader

ORDER

Mr.***Mr.L.P. Shanmugasundaram**, learned Special Government Pleader, takes notice for the respondent.

2. The prayer in the Writ Petition is for issuance of Writ of Mandamus, forbearing the respondent from initiating any fresh proceedings with regard to the shortage of seized rice at the Gummidipundi godown as mentioned in the order of retirement dated 30.07.2008, as per the judgment, dated 04.08.2014, passed by the Hon'ble Division Bench of this Court in W.A.No.112 of 2013, with further direction to the respondent to refund the sum of

Rs.1,36,329/- withheld by the respondent by virtue of the said judgment of this Court.

3. At the threshold, the learned counsel appearing for the petitioner has drawn attention of this Court to the judgment, dated 04.08.2014, passed by the Division Bench of this Court in W.A.No.112 of 2013 and submitted that, as per the said judgment, the respondent was directed to conduct enquiry and pass fresh orders within a period of three months. Though three months' time stipulated by the Division Bench is over, so far, the respondent has not passed any orders in compliance of the said judgment. Hence, the petitioner has filed the present Writ Petition seeking for the aforesaid prayer.

4. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondent, and this Court also perused the judgment, dated 04.08.2014, passed by the Division Bench of this Court in W.A.No.112 of 2013. For better appreciation, the operative portion of the judgment is extracted hereunder:-

" In view of the above, the writ appeal is dismissed with a direction to the respondent to issue a fresh show cause notice as ordered by the learned single judge and if the appellant denies the allegation, the respondent is directed to conduct enquiry as contemplated under the Regulation and pass fresh orders, within a period of three months from the date of receipt of a copy of this order. It is made clear that the amount quantified for recovery even according to the impugned order is only Rs.1,73,845/- and hence, if the appellant is entitled to get any amount other than the said amount of Rs.1,73,845/0, the same shall be paid to the appellant within a period of two weeks from the date of receipt of a copy of this order."

5. In view of the above judgment, this Court is of the firm view that the only efficacious remedy available to the petitioner is to file Contempt Petition against the respondent and the petitioner cannot seek for the prayer, as mentioned in para No.2 of this order by way of Writ. As this Court expressed its strong view, thereby, negating the prayer sought for by the petitioner, the learned counsel for the petitioner pleaded that this Court may be pleased to issue a direction to the respondent to complete the enquiry by granting another three months' time.

6. In view of the limited scope of the prayer, now sought for by the learned counsel appearing for the petitioner, this Writ Petition is disposed of, by directing the respondent to complete enquiry and pass fresh orders within a period of three months from the date of receipt of a copy of this order, bearing in mind the judgment, dated 04.08.2014, passed by the Division Bench in W.A.No.112 of 2013. No costs. Consequently, connected M.P.is closed.

-s/d-

Assistant Registrar(CO)

Dated: 27.4.2015

*Corrected as per
order dated 30.4.2015
Sd/
Assistant Registrar
Dated: 7.5.2015

True Copy

Sub-Assistant Registrar

To

The Tamil Nadu Civil Supplies Corporation,
rep. by its Regional Manager, Tiruvallur Region,
TIRUVALLUR - 602 001

+ 1 cc to Mr.S.Venkataraman, Advocate SR 22373

+ 1 cc to Mr.L.P.Shanmugasundaram, Advocat SR 23016

ku(co)
prk27/4

kk 7.5

To be
substituted
TO THE ORDER

ALREADY
despatched
on 28.4.2015

WEB COPY Writ Petition No.11895 of 2015
and M.P.No.1 of 2015