

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.06.2015

CORAM

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

W.P.No.15537 OF 2015 &
M.P.No.1 of 2015

S.Murugan

[PETITIONER]

Vs

- 1 The Secretary to Government
Commercial Tax Department
Secretariat, Fort St. George,
Chennai-600 009.
- 2 The Principal Secretary/
Commissioner of Commercial Taxes
Ezhilagam, Chepauk ,
Chennai-600 005.
- 3 The Joint Commissioner
(Commercial Taxes)
Vellore Division
Vellore.
- 4 The Deputy Commissioner (Commercial Taxes)
Cuddalore.
- 5 The Station House Officer
Vigilance and Anti Corruption Wing of Police
Department Cuddalore District.

[R-5 is Suo-motu impleaded as per
order dt.3.6.15 made in wp.15537/15]

[RESPONDENTS]

Writ petition is filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records relating to the 2nd respondent herein in proceedings No.P1/1677/2014 dated 5.12.2014 in so far as non inclusion of the petitioner's name in the Temporary List of Commercial Tax Officer for the year 2014 for the promotion post of Commercial Tax Officer is concerned and quash the same and consequently direct the 2nd respondent herein include the petitioner name in the appropriate place with due regard to the petitioner seniority and confer the promotion post of Commercial Tax Officer with all attendant and consequential benefits with due regards the petitioner seniority.

For Petitioner : Mr.P.Gurunathan
For Respondents : Mr.S.Kanmani Annamalai -R1 to R4
Addl.Govt. Pleader

Mr.K.V.Dhanapalan - R5
Addl.Government Pleader

O R D E R

With the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal at the admission stage itself.

2.The petitioner is a Deputy Commercial Tax Officer. The Principal Secretary / Commissioner of Commercial Taxes, issued a proceedings in Proc.No.P1/1677/2014 dated 05.12.2014, relating to drawal of temporary list of Deputy Commercial Tax Officer, fit for promotion to the post of Commercial Tax Officer for the year 2014 for the State Unit. In paragraph No.4 of the proceedings, it is stated as follows:

"4.The Joint Commissioners (CT) and Enforcement are instructed to withhold the communication of this order to those individuals against whom disciplinary proceedings under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules have been initiated by service of charge memos or charge sheets have been filed in any criminal cases initiated against them or cases are pending before the Tribunal for Disciplinary Proceedings or punishments have been imposed, subsequent to the recommendation of their names in the Nomination Rolls by the respective Joint Commissioners (CT). "

3.The learned counsel for the petitioner submits that no charge sheet was filed in the criminal case and hence the petitioner ought to have been included in the panel. Hence, I passed the following order on 03.06.2015, when the matter was listed for hearing:

"The Station House Officer, Vigilance and Anti Corruption Wing of Police Department, Cuddalore District is suo motu impleaded as respondent.

2.Mr.K.V.Dhanapalan, learned Additional Government Pleader takes notice for the impleaded respondent.

3.The impleaded respondent/ Station House Officer is directed to give a report to this Court as to whether final report is filed in Crime No.6 of 2013 on the file of The Station House Officer, Vigilance and Anti Corruption Wing - Police, Cuddalore District.

4.If final report is given, the writ petition deserves to be rejected. If final report is not made, then direction could be made to dispose of the representation of the petitioner. Post on 15.06.2015 at the end of motion list."

4.Now a report is filed, stating that a final report was filed by the Deputy Superintendent of Police, Vigilance and Anti Corruption, Cuddalore, and the matter is taken up by the learned Chief Judicial Magistrate, Cuddalore in Spl.Case No.6 of 2015 and the petitioner has been arraigned as A-2 in the final report.

5.As the aforesaid case relates to corruption charges, I am not inclined to quash the proceedings dated 05.12.2014, for not including the name of the petitioner in the temporary list of Deputy Commercial Tax Officer, fit for promotion to the post of Commercial Tax Officer for the year 2014 for the State Unit.

6.Accordingly, the Writ Petition stands dismissed. However, the petitioner is at liberty to get appropriate relief, if he is acquitted in the criminal case. No costs. Consequently, connected Miscellaneous Petition is closed.

rpa

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

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Cuddalore.

5 The Station House Officer
Vigilance and Anti Corruption Wing of Police
Department Cuddalore District.

+ 1 cc to M/s.P.Gurunathan, Advocate SR 29889

+ 1 cc to Govt.Pleader, High Court, Madras SR 29836

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prk30/6

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