

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.15571 of 2015
and M.P.Nos.1 to 3 of 2015

A.P.Radhakrishnan

... Petitioner

Vs.

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk, Chennai - 10,
2. The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Tiruvallur Region, Tiruvallur,
Tiruvallur District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.MD9/6610/2015, dated 20.05.2015 confirming the order of the 2nd respondent in her proceedings Na.Ka.No.B4/0239/15, dated 18.02.2015 and quash the same and consequently direct the respondents to allow the petitioner for transport of essential articles from Tamil Nadu Civil Supplies Corporation Seven Godown, Tiruvallur District.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmugasundaram, Spl.G.P.

ORDER

The petitioner is a contractor with respondents. As per the terms of the contract, the petitioner will have to lend his lorries to carry food materials to their destination. By the order impugned, the contract of the petitioner was cancelled on the ground that the petitioner was not sending his vehicles to carry the food materials apart from diverting them for illegal purpose as per the report of the police. The appeal filed by the petitioner was also rejected.

2. Learned counsel appearing for the petitioner submits that the petitioner has not been heard. The petitioner has got sufficient documents to show that supply has been effected as per the terms of

the contract. Such unilateral cancellation cannot be sustained in the eye of law.

3. Learned Special Government Pleader appearing for the respondents submitted that power is available with the respondents for unilateral cancellation. Relevant materials have been taken into consideration by the respondents before passing the impugned orders. The petitioner has also exhausted the alternative remedy. Hence, no interference is required with the impugned orders.

4. Mere existence of a clause providing for unilateral cancellation by itself cannot be a ground to dispense with the principles of natural justice. Admittedly the petitioner has not been heard before passing the orders impugned. The orders impugned have got civil consequences. The materials, which the petitioner sought to place on record with the respondents, have not been looked into before passing the orders impugned. There is no indication even in the appeal that the grounds raised by the petitioner have been considered.

5. For the foregoing reasons, the orders impugned are set aside and the writ petition is allowed. Respondent No.2 is directed to issue a show cause notice to the petitioner as to why an order of cancellation shall not be passed and thereafter the petitioner will give his reply. On receipt of the same, appropriate final orders shall be passed by respondent No.2 by way of reasoned order. Such exercise will have to be completed by respondent No.2 within a period of eight weeks from the date of receipt of copy of this order.

The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

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Sub Asst. Registrar

To

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk, Chennai - 10,
2. The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Tiruvallur Region, Tiruvallur,
Tiruvallur District.

+1 cc to Mr.L.P.Shanmugasundaram, Advocate, sr.46757

+1 cc to Mr.C.Prakasam, Advocate, sr.46773

W.P.No.15571 of 2015

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