

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01-09-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.25991 of 2015

and

M.P.No.1 of 2015

1.N.Srinivasan
2.G.Pandian
3.P.M.Murugan
4.C.Theerthagiri
5.K.Ramachandran
6.V.C.Nagarajan
7.R.Ravichandran
8.S.Ranganathan
9.V.Ponnusamy
10.S.Balu Rajendran
11.P.Sathasivam
12.S.Somasundaram
13.P.Thambidurai
14.N.S.Saravanan

.. Petitioners

vs

1.Tamil Nadu Civil Supplies Corporation
Ltd.,
Rep. By its Chairman cum Managing
Director
42, Thambusamy Road,
Kilpauk, Chennai 600 010
2.The Regional Manager
Tamil Nadu Civil Supplies Corporation
Ltd.,
Dharmapuri Region, Dharmapuri.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records from the file of the 2nd respondent bearing Na.Ka.No.B4/1644/2014 dated 30.6.2015, and quashing the same insofar as the petitioners are concerned.

For Petitioners

: Mr.K.M.Ramesh

For Respondents

: Mr.L.P.Shanmugasundaram
Special Government Pleader
(Cooperative)

ORDER

2.The deponent of the affidavit, who is the first petitioner, would state that he is working as a Packer and the other petitioners are working as Quality Inspectors, Junior Assistants, Bill Clerks and Packers respectively in Dharmapuri Region of the first respondent-Corporation, in the Godowns as well as in the Ration Shops. It is further stated that in order to promote the tea produced by the Cooperative Tea Factories viz. Indco Serve, in Udhagamandalam, tea packets were supplied and kept in Godowns and were sent to Amudham Retail Shops for the purpose of sale and in spite of many efforts made by the Sales Personnel attached to the Amudham Retail Shops as well as the Ration Shops, their endeavour to sell it to the public has resulted in failure, and though attempts have been made to return the tea packets, which have not been sold, the Tea Factories refused to receive the same.

3.The deponent would further state that all of a sudden, they have have been issued with the impugned order of recovery stating that tea packets have been kept in the Godown beyond the period of usage/best before use and challenging the same, the present writ petition came to be filed.

4.Mr.K.M.Ramesh, learned Counsel appearing for the petitioners, has drawn the attention of this Court to the impugned recovery order and would submit that though a reference has been made in the impugned order, as to the show cause notice dated 15.5.2014, the same has not been served on the petitioners and without affording any opportunity whatsoever, the impugned order of recovery came to be passed and prays for interference.

5.Per contra, Mr.L.P.Shanmugasundaram, learned Special Government Pleader, who accepted notice on behalf of the respondents, would submit that show cause notices were directed to be served through the Godown Incharge and after affording adequate and reasonable opportunity to the petitioners only, the impugned order of recovery came to be passed.

6.This Court has carefully considered the rival submissions and also perused the materials placed before it.

7.A perusal of the impugned order of recovery would disclose that show cause notice has been referred to therein and no reference has been made to the alleged response/explanation submitted by the petitioners in response to the show cause notice. However, the fact remains that the show cause notices were directed to be served on the petitioners through the Godown Incharge, and it seems that they have failed to serve the same on the petitioners. As rightly contended by the learned Counsel appearing for the petitioners, in the impugned order also, no reference has been made to the response/explanation submitted by the petitioners as to the show cause notices. In the considered opinion of the Court, since no adequate or reasonable opportunity has been afforded to the petitioners to response to the show cause notices and since the impugned order has been passed without providing them with sufficient opportunity to put forth their stand, the same warrants interference.

8.In the result, the writ petition is partly allowed. The impugned order dated 30.6.2015, passed by the second respondent, is set aside and the matter is once again remanded to the second respondent for fresh adjudication. The second respondent is directed to serve individual show cause notice to the petitioners within a period of two weeks from the date of receipt of a copy of this order and the petitioners, on receipt of the same, are directed to submit their response/explanation within a period of two weeks thereafter, and the second respondent, on receipt of the same, is directed to consider it on merits and in accordance with law and pass orders thereon within a period of four weeks thereafter and communicate the decision taken, to the petitioners. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To:

- 1.The Chairman cum Managing Director
Tamil Nadu Civil Supplies Corporation Ltd.,
42, Thambusamy Road,
Kilpauk, Chennai 600 010
- 2.The Regional Manager
Tamil Nadu Civil Supplies Corporation
Ltd.,
Dharmapuri Region, Dharmapuri.

1 cc to Mr.L.P.Shanmugasundaram , Advocate Sr.No.46759
1 cc to Mr. K.M.Ramesh, Advocate Sr.No.46783

nsv

W.P.No.25991 of 2015

ctk(co)
pmk.18.9.2015

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