

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.7691 of 2011 &
M.P.No.1 of 2011

P.Ganesan

... Petitioner

v.

1.The Collector,
Salem District,
Salem.

2.The District Revenue Officer,
Salem.

3.The District Supply Officer,
Collectorate, Salem.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus, calling for the records relating to the 3rd respondent's order made in Na.Ka.No.29957/2011/J2, dated 3.2.2011, to quash the same and consequently direct the respondents 1, 2 and 3 to permit the petitioner to restore temporary cancellation of kerosene licence.

For Petitioner : Mr.L.Channdrakumar

For Respondents : Mr.R.Lakshminarayanan,
Addl. Govt. Pleader

ORDER

Heard Mr.L.Channdrakumar, learned counsel for the petitioner and Mr.R.Lakshminarayanan, learned Additional Government Pleader for the respondents and with their consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has challenged the order passed by the third respondent dated 3.2.2011 by virtue of which, his request for revoking the suspension of his licence for retail vending of kerosene was rejected.

3. Initially, by order dated 29.10.2009, the first respondent passed an order cancelling the retail vending of kerosene licence granted to the petitioner on the ground of black marketing. Aggrieved by which, the petitioner preferred an appeal and the appeal was rejected by an order dated 31.7.2009 by the second respondent as against which, the petitioner preferred a revision to the first respondent, which was allowed on the ground that there has been violation of principles of natural justice and the matter was remanded for fresh consideration. Pursuant to the same, the impugned order dated 3.2.2011 has been passed.

4. Admittedly, as mentioned in the impugned order dated 3.2.2011 as well as in the counter affidavit filed by the respondents, the petitioner has alternative remedy of filing an appeal.

5. The learned counsel appearing for the petitioner submitted that the third respondent while passing the impugned order did not consider the direction in the earlier order dated 29.10.2009 and that the petitioner is entitled to file a writ petition for renewal of his licence and it has nothing to do with the black marketing or the allegation of involvement of illicit transportation of rice intended for Public Distribution System.

6. In view of the above, I am of the view that all the issues are factual issues and the petitioner should exercise the appeal remedy available to him and that there is no justifiable reason to bypass such a remedy and the petitioner has also not made out any exceptional circumstances to bypass the same.

7. Accordingly, the writ petition is disposed of by granting liberty to the petitioner to file an appeal before the appellate authority within a period of three weeks from the date of receipt of a copy of this order. If appeal is filed before the appellate authority, the appellate authority shall entertain the appeal without rejecting the same on the ground of limitation, since the writ petition is pending from 22.3.2011. Since the petitioner had the benefit of interim stay from 24.3.2011 pending the writ petition, till the appeal is disposed of by the appellate authority, the interim order shall continue. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Collector,
Salem District,
Salem.

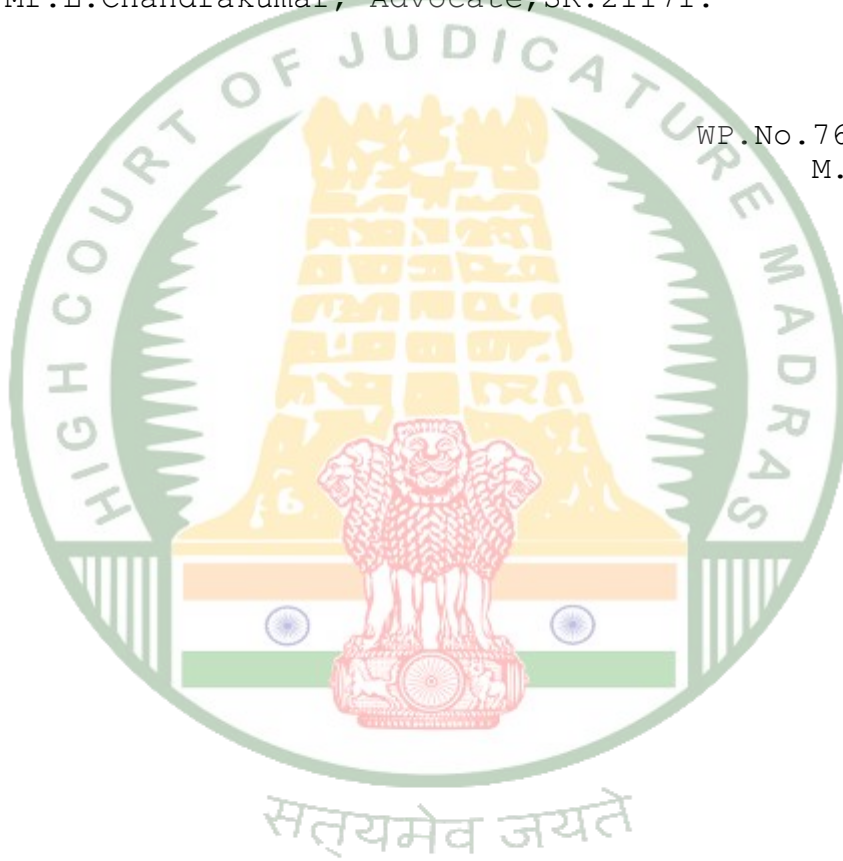
2.The District Revenue Officer,
Salem.

3.The District Supply Officer,
Collectorate, Salem.

+1 cc to Mr.L.Chandrakumar, Advocate, SR.21171.

tm(CO)
KRD 23/4

WP.No.7691 of 2011 &
M.P.No.1 of 2011



WEB COPY