

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

Writ Petition No.23360 of 2013
& M.P.No.1 of 2013 and 1 of 2015

1. Tamil Nadu Electricity Board Engineers' Sangam,
Registration Number 124/MDS (Recognised),
Rep. By its General Secretary, Mr. V.Ashok Kumar,
793 Anna Salai, Chennai 600 002
 2. Sri R.Sankaran, Publisher & Editor,
MINALAI (Tamil and English Monthly),
Tamil Nadu Electricity Board Engineers' Sangam,
793 Anna Salai, Chennai 600 002
- ... Petitioners

Vs

1. The Chief Post Master,
Office of the Chief Post Master,
Anna Road HPO, Chennai - 2
 2. The Senior Superintendent of Posts,
Office of the Senior Superintendent of Post Offices,
Chennai City Central Division, Chennai - 17
- ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to quash the proceedings of the first respondent in G2/RNP-Dlgs/2012 dated 01.09.2012 read with G2/RNP-Dlgs/2013 dated 02.02.2013 read with G2/RNP/Dlgs/2013 dated 13.06.2013 and consequently direct the Official Respondents to renew the RNP Licence of the petitioners and permit the petitioners to post their English and Tamil Monthly Magazine "MINALAI" at concessional rates of postage.

For Petitioners : Mr. Yashodvaradhan, Sr. Counsel, for,
Mr. R.Sunil Kumar
For Respondents : Mr. S.Mahesh, ACGSC

O R D E R

The first petitioner is an Association and the second petitioner is a Publisher and Editor of 'MINALAI', which is a monthly magazine in English and Tamil.

2. Admittedly, the petitioners do have the requisite certificate under the Indian Postal Act 1898 as mandated under Section 9 of the said Act. A concession has been given to the petitioners from the year 1973 onwards and the said concession was renewed from time to time. On 01.09.2012, the order impugned has been passed, followed by the subsequent orders on 02.02.2013 and 13.06.2013, pursuant to which the earlier concession given to the petitioners was cancelled and demand notices were raised for the said period.

3. Even as per the documents filed by the respondents the petitioners do have certificate under The Press and Registration of Books Act, 1967, dated 28.09.1972 issued by the Office of the Chief Presidency Magistrate, Egmore, Chennai. It was followed by another Certificate dated 23.01.2013 which is a certificate of registration issued by the Office of the Registrar of News Paper for India.

4. The orders impugned have been passed on account of non-compliance of the provisions of Sections 5 and 6 of the Press and Registration of Books Act, 1967. It is now seen that the orders impugned have been passed only in pursuant to the audit objections raised by the respondents / Department. From the counter affidavit, it is seen that the petitioners were informed by the letter dated 24.08.2012 the cancellation of RNP and it was followed by the demand notices, which were also under challenge.

5. The learned senior counsel appearing for the petitioners primarily contended that the relevancy of the certificate dated 28.09.1972 and the certificate of the registration dated 23.01.2013 have not been looked into; the petitioners have not been given an opportunity of being heard before passing the impugned orders; though 10 days time have been granted, even according to the respondents, the cancellation order was passed on 24.08.2012 itself, in pursuant to the letter dated 18.08.2012 directing the petitioners to produce the certificate of Newspaper (RNI) to be obtained from the Press Registrar.

6. The learned Additional Central Government Standing Counsel appearing for the respondents submitted that the subsequent production of the Certificate of Registration (RNI) dated 23.01.2013 would not validate the earlier certificate dated 28.09.1972; there is a deeming fiction involved; as the petitioners do not have the certificate, dated 28.09.1972, the orders impugned do not require any interference.

7. This Court has considered the submissions made by the learned counsel for both sides and perused the materials available on record.

8. A perusal of the orders impugned would certainly indicate that the petitioners have not been heard, viz., the opportunity of hearing has not been provided to the petitioners. Admittedly, the impugned orders have been passed based upon the audit objections and that is

the reason why they have been passed relating back to the earlier period. The said orders have got civil consequences too. This Court is concerned with the decision making process rather than decision of the authority.

9. In such view of the matter, the orders impugned have to be set-aside and they are accordingly set-aside. The respondents are directed to issue a fresh notice to the petitioners as to why the amount demanded shall not be recovered. After hearing the petitioners, appropriate final orders shall be passed by the respondents. It is made clear that all the issues are left open to the respondents to decide depending upon the merits of the claim. The said exercise will have to be carried out by the respondents within a period of 12 weeks from the date of receipt of a copy of this order.

10. This writ petition is disposed of accordingly. No costs. Consequently the connected MPs are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

srk

To

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Office of the Chief Post Master,
Anna Road HPO, Chennai - 2
2. The Senior Superintendent of Posts,
Office of the Senior Superintendent of Post Offices,
Chennai City Central Division, Chennai - 17

1 cc to Mr.R.Sunil Kumar , Advocate Sr.No.51000
1 cc to Mr. S.Mahesh,, Advocate Sr.No.50623

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