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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2015

CORAM:

THE HONOURABLE DR. JUSTICE S.TAMILVANAN

and

THE HONOURABLE MR. JUSTICE V.S.RAVI

W.A. (MD) No.80 of 2015

and

M.P. (MD) No.1 of 2015

Malhotrapandian

... Appellant /Petitioner

Vs.

1.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

2.The Deputy Superintendent of Police,
Armed Reserve, Ramanathapuram.

3.The Deputy Superintendent of Police,
District Crime Record Bureau,
Ramanathapuram.

... Respondents/Respondents

PRAYER: The Writ Appeal is filed under Clause 15 of Letters Patent Act, to set aside the order dated 18.12.2014 passed by the Learned Single Judge in W.P. (MD) No.20623 of 2014.

Prayer in WP(MD). 20623/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, for the issue of a writ of Certiorari to call for the records pertaining to the impugned order dated 23.8.2014 F3/Tha.Pa.No.156/14 passed by the 2nd respondent and quash the same as illegal.

For Appellant : Mr.R.Venkatesan

For Respondents : Mr.M.Alaguthevan, Spl.G.P.

JUDGMENT

(Judgment of this Court was delivered by S.TAMILVANAN,J.)

Challenging the order dated 18.12.2014 made in W.P. (MD) No.20623 of 2014 passed by the Learned Single Judge, the Writ Appeal has been preferred.

2.The appellant / petitioner filed the Writ petition, seeking an order in the nature of Writ of Certiorari, calling for the records pertaining to the impugned order dated 23.08.2014 passed in F3/Tha.Pa.No.156/14 by the Deputy Superintendent of Police, Armed Reserve, Ramanathapuram, and quash the same.



3. Learned counsel appearing for the appellant / petitioner submitted that the Deputy Superintendent of Police, Armed Reserve, Ramanathapuram, the second respondent herein, in the Writ petition has no jurisdiction to issue the memo.

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4. Per contra, the learned Special Government Pleader appearing for the respondents submitted that the contention of the appellant / petitioner is not correct, since the aforesaid impugned order has been approved by the Superintendent of Police, Ramanathapuram, the first respondent herein and further, submitted that the petitioner is a subordinate to the respondents and the appointing authority of the petitioner being the first respondent, the same cannot be challenged at this stage before completion of the enquiry proceeding, even without submitting reply and raising his legal defence if any.

5. Learned counsel appearing for the petitioner further submitted that necessary copies were not furnished to the petitioner. Had the copies of documents relied on by the respondents, in issuing the memo and not furnishing to the petitioner, he could have requested to furnish the same so as to enable him to submit his reply. The petitioner should also specifically state that what are the copies of documents required for submitting his reply. If copy of any inconnected document is sought for to protract the proceeding / enquiry the respondents need not furnish the same.

6. It cannot be disputed that furnishing copies relating to the material papers is the duty of the respondents and it is a constitutional right. On the ground of reasonable opportunity to the petitioner. On the facts and circumstances, if the copies of material papers were not furnished to the petitioner, the same shall be furnished to him in order to provide reasonable opportunity to maintain the principles of natural justice.

7. Considering the facts and circumstances, the respondents are directed to conduct enquiry as per procedure known to law, though, the petitioner is not entitled to seek an order to quash the impugned order passed by the second respondent at the threshold.

8. In the result, the order dated 18.12.2014 passed in W.P. (MD) No. 20623 of 2014 by the Learned Single Judge is confirmed and the Writ Appeal is dismissed. No costs. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar(AS)

Sub Assistant Registrar



1.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

2.The Deputy Superintendent of Police,
Armed Reserve,
Ramanathapuram.

3.The Deputy Superintendent of Police,
District Crime Record Bureau,
Ramanathapuram.

+1cc to Mr. R. Venkatesan, Advocate Sr.8261
nbj
AA/01.04.2015/3p-5c/

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23.02.2015