

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.04.2016

Coram

The Hon'ble Mr.Justice T.S.SIVAGNANAM

Writ Petition No.12771 of 2016

&

W.M.P.No.11172 of 2016

B.Saravanan

...Petitioner

Vs.

The Executive Director
P.R.2 Perambalur District Consumer Co-operative
Wholesale Store Ltd.,
No.5, K.R.Complex, Thirumangalam
Trichy Main Road
Perambalur.

....Respondent

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari calling for the records comprised in Na.Ka.No.PDS(1) dated 30.01.2016 on the file of the respondent, quash the same insofar as it relates to blacklisting the petitioner from participating in future tenders as being arbitrary and illegal.

For Petitioner : Mr.T.Shanmugam

For Respondents : Mr.M.S.Palanisamy

O R D E R

Petitioner, is aggrieved by the impugned proceedings insofar as blacklisting him as registered contractor for supplying of lorries to the respondent society for transportation of material meant for public distribution.

2. A show cause notice containing serious charges were issued to the petitioner on 11.01.2016, and the gist of charges is that the petitioner has indulged in smuggling of PDS items outside the State. The petitioner submitted his explanation on 25.01.2016, and after considering the same and not being satisfied the contract awarded in favour of the petitioner was cancelled by proceedings dated 30.01.2016. However, the petitioner has not challenged the cancellation and the said order has become final. The finding which has led to the cancellation of the tender stands at the face of the petitioner

and in the absence of any challenge to the same that would bind the petitioner. However, the petitioner has not challenged the cancellation of the contract, but he is aggrieved only by the portion of the impugned order which blacklist the petitioner from participating in any tender called for by the Society.

3. Mr.Palaniswamy, learned counsel appearing for the respondent Society while accepting notice submitted that the petitioner has effective alternative remedy under the Provisions of The Tamilnadu Co-Operative Societies Act, 1983, and he can file a revision before the Joint Registrar of the Concerned Region. Under normal circumstances, the petitioner would be relegated to such remedy, but in the instant case the petitioner's grievance is that without affording him an opportunity he has been blacklisted forever. Therefore, this Court is of the view that to that extent of the impugned order the petitioner should be afforded an opportunity to place material so as to enable the respondent to consider the same.

4. In the light of the above, while confirming the impugned order in so far as the cancellation of contract is concerned, liberty is granted to the petitioner to submit a representation only with regard to the order blacklisting the petitioner from participating any tenders of the respondent Society. If such representation is given the respondent may consider the same and pass orders on merits and in accordance with law within a period of three months.

5. Accordingly, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.
kpr

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Executive Director
P.R.2 Perambalur District Consumer Co-operative
Wholesale Store Ltd.,
No.5, K.R.Complex, Thirumangalam
Trichy Main Road, Perambalur.

+ 1 cc to Mr.M.S.Palanisamy, Advocate Sr 21463
+ 1 cc to Mr.T.Shanmugam, Advocate Sr 21632

KR/13/4/16

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