

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.17698 of 2016

And

W.M.P.No.15406 of 2016

Ananda Sam Sankar

... Petitioner

Vs.

The District Magistrate
Department of Revenue and Disaster Management
Government of Union Territory of Puducherry
Puducherry - 605 001.

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the respondent relating to the impugned order of the respondent dated 02.05.2016 bearing Ref.No.5062/DM/RO/TAH/D2/2016 and quash the same.

For Petitioner : Mr.T.Saikrishnan

for M/s.Sai Bharath and Ilan

For Respondent : Mrs.D.Reena Iswariya

Additional Government Pleader (Pondy)

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The grievance expressed by the petitioner is that with regard to the alleged violation of Section 3 of the Press and Registration of Books Act, 1867 (Central Act 25 of 1867), the petitioner was issued with a show cause notice, for which, he has also offered his explanation and without providing him an opportunity of personal hearing, the impugned order came to be passed and challenging the legality of the same, came forward to file this writ petition.

3.Mr.T.Saikrishnan, learned counsel appearing for the petitioner has drawn the attention of this Court to Section 8-B of the said Act and would submit that the said section mandates an opportunity of being heard and admittedly, such an opportunity has not been afforded/ provided. Hence, on the short ground, the impugned order warrants interference and prays for appropriate orders.

4. Per contra, Mrs.D.Reena Iswariya, learned Additional Government Pleader (Pondy) appearing for the respondent would submit that the petitioner was issued with a show cause notice for which, he has offered his explanation and the respondent on a thorough consideration and appreciation of the materials placed before it, has rightly reached the conclusion and therefore, the impugned order cannot be interfered with and prays for dismissal of the writ petition.

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

6. It is relevant to extract Section 8-B of the Press and Registration of Books Act, 1867 hereunder:

"8-B. Cancellation of declaration.- If, on an application made to him by the Press Registrar or any other person or otherwise, the Magistrate empowered to authenticate a declaration under this Act, is of opinion that any declaration made in respect of a newspaper should be cancelled, he may, after giving the person concerned an opportunity of showing cause against the action proposed to be taken, hold an inquiry into the matter and if, after considering the cause, if any, shown by such person and after giving him an opportunity of being heard, he is satisfied that -

(i) the newspaper, in respect of which the declaration has been made is being published in contravention of the provisions of this Act or rules made thereunder, or

(ii) the newspaper mentioned in the declaration bears a title which is the same as, or similar to, that of any other newspaper published either in the same language or in the same State, or

(iii) the printer or publisher has ceased to be the printer or publisher of the newspaper mentioned in such declaration, or

(iv) the declaration was made on false representation or on the concealment of any material fact or in respect of a periodical work which is not a newspaper, the Magistrate may, by order, cancel the declaration and shall forward as soon as possible a copy of the order to the person making or subscribing the declaration and also to the Press Registrar."

7. A perusal of the impugned order would disclose that before passing the impugned order, opportunity of being heard/ personal hearing has not been afforded to the petitioner. On the sole ground, the impugned order warrants interference.

8.Hence, this writ petition is partly allowed and the impugned order, dated 02.05.2016, is set aside and the matter is remanded to the respondent for fresh consideration and adjudication. The respondent before passing final order, shall afford opportunity of personal hearing to the petitioner and thereafter, pass orders in accordance with law, as expeditiously as possible and within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

The District Magistrate
Department of Revenue and Disaster Management
Government of Union Territory of Puducherry
Puducherry - 605 001.

+1 cc to M/s.Sai Bharath, Advocate,SR.37373

+1 cc to Government Pleader,SR.37688.

rsy(co)
krd 19/7

W.P.No.17698 of 2016

And

W.M.P.No.15406 of 2016

सत्यमेव जयते

WEB COPY