

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.A. No.134 of 2016 and C.M.P. No.1807 of 2016

M. Mahalingam

Appellant

Vs.

1 P. Sakthivel

2 The Additional Director of Agriculture
(Personnel & Management)
O/o the Director of Agriculture
Chepauk
Chennai 600 005

3 The Director
Seed Certification and Organic
Certification Department
Coimbatore 641 003

Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 28.10.2015 passed in W.P. No.24813 of 2015. Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records in relation to the proceedings of the first respondent viz. DCS1/1/39874/2014-2, dated 3.8.2015 and quashing the same.

For appellant Mr. K. Rajkumar

For RR 2 & 3 Mr. P.S. Sivashanmugasundaram
Special Government Pleader

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for respondents 2 and 3.

2 The instant intra-Court appeal is focussed against the order dated 28 October 2015 rendered in W.P. No. 24813 of 2015.

3 To avoid prolixity, the parties are referred to as per their arraignment in this intra-Court appeal.

4 On the basis of a complaint made by the appellant against the first respondent alleging that the latter had created a fake email ID in the former's name and misused the same for sending communications, a charge sheet was filed against the first respondent before the Judicial Magistrate Court No.VII, Coimbatore. During pendency of the said charge sheet, the first respondent was placed under suspension vide proceedings of the second respondent dated 03 August 2015. The said suspension order was assailed by the first respondent in the instant writ petition being W.P. No.24813 of 2015. The learned Single Judge, impleading the appellant as a party respondent in the writ petition, came to the following conclusion:

"11 Though the petitioner prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, permits him to submit a representation giving out reasons for reviewing/revoking the order of suspension, to the second respondent within a period of two weeks from the date of receipt of a copy of this order and the second respondent, on receipt of the same, is directed to consider it on merits and in accordance with law, in the light of the above said administrative instructions, and pass orders thereon within a period of ten weeks thereafter and communicate the decision taken, to the petitioner. The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions is closed."

5 The moot question for consideration in this intra-Court appeal is as to whether the order passed by the learned Single Judge, directing the official respondents to consider the first respondent's representation for review/revocation of his suspension order, is assailable by the appellant.

6 Once the appellant has brought to the notice of the authorities, the illegalities committed by the first respondent and the same having been taken cognizance of by the official respondents, the appellant does not have locus to oppose the direction given by the learned Single Judge to the official respondents to consider the first respondent's representation seeking review/revocation of suspension.

7 The learned counsel for the appellant has relied on a Division Bench judgment of the Bombay High Court in R.R. Tripathi (Adv.) vs. Union of India and Others¹, wherein, the extension of service granted to the Chief Secretary was under assail by an advocate. The Division Bench held that having regard to the nature of office, a public interest litigation was maintainable at the instance of a public spirited person.

8 In the case on hand, the instant writ petition was moved by the first respondent, the delinquent employee, who was placed under suspension. The issued involved in the writ petition was revocation of suspension order passed by the employer. Such being the position, the appellant has no locus to question the direction given by the learned Single Judge to the official respondents to consider the first respondent's representation seeking review/revocation of suspension. Thus, we are afraid that the appellant does not derive any benefit from the observation made by the Division Bench of Bombay High Court in R.R. Tripathi (Adv.) (supra) inasmuch as the said decision is distinguishable on facts.

9 Even on merits, we do not find any infirmity in the order of the learned Single Judge in disposing of the writ petition with a direction to the official respondents to consider the first respondent's representation for review/revocation of suspension, in accordance with law and on its own merits.

In view of the foregoing discussion, this intra-Court appeal is liable to be dismissed and is accordingly dismissed. Costs made easy. Connected C.M.P. is closed.
cad

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1 The Additional Director of Agriculture
(Personnel & Management)
O/o the Director of Agriculture
Chepauk
Chennai 600 005

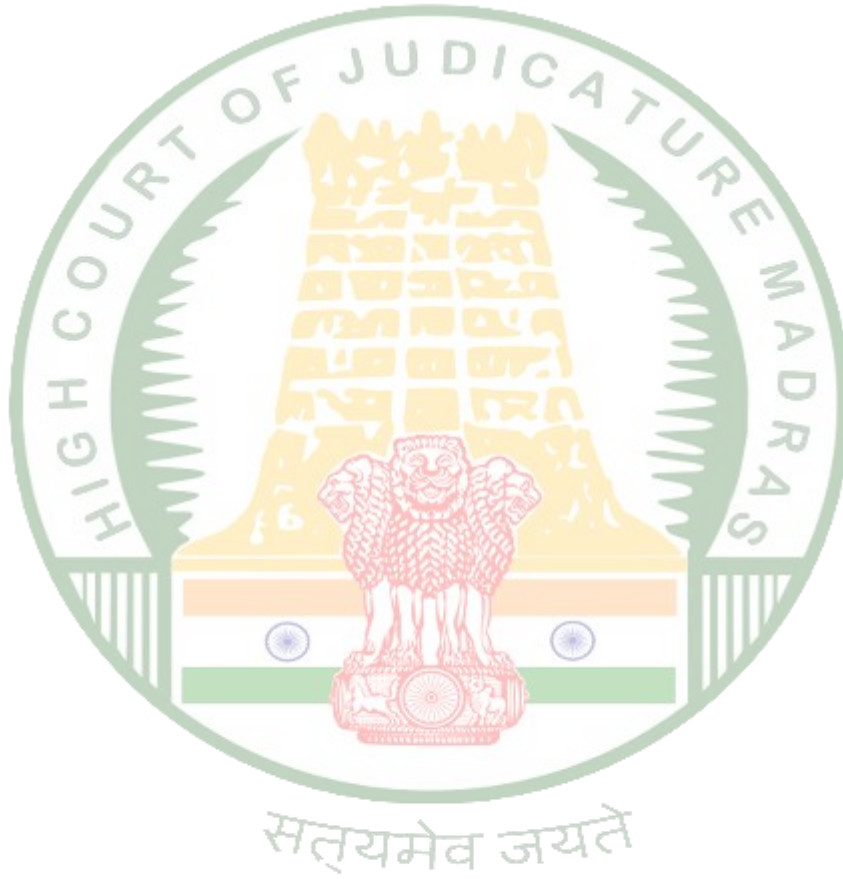
2 The Director
Seed Certification and Organic
Certification Department
Coimbatore 641 003

+ 1 cc to Mr.K.Rajkumar, Advocate SR 8155

+ 1 cc to the Govt.Pleader SR 8869

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W.A. No.134 of 2016



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