

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

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

W.A. No.403 of 2016
and
C.M.P.No.6006 of 2016

K.Rajendran .. Appellant/5th Respondent

Vs.

1.G.Kumaresan

2.The Principal Secretary,
Environment and Forests Department,
State of Tamil Nadu,
Secretariat
Chennai-600 009.

3.The Principal Chief Conservator of Forests (HOFF),
Panagal Maligai,
Saidapet, Chennai-600 015.

4.The Chief Conservator of Forests,
Planning and Development,
Panagal Maligai,
Saidapet, Chennai-600 015.

5.District Forest Officer,
South Forest Division,
Tiruvannamalai.

.. Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 09.03.2016 passed in W.P.No.35937 of 2015 presented under Article 226 of the Constitution of India to issue a Writ of Mandamus or order of direction in the nature of a Writ directing the respondents 1 to 3 to initiate disciplinary action against the respondents 4 and 5 and to black list the 6th respondent in view of the offense committed by them and a criminal case in Cr.No.1 of 2015 on 15.08.2015 on the file of the Inspector of Police, Vigilance and Anti corruption, Tiruvannamalai u/S 120-B & 109 IPC and 7,12 r/w 13(2) r/w 13(1) (d) of the prevention of Corruption Act, 1988 is under investigation and pass such further order.

For Appellant Mr.V.Selvaraj

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

The instant appeal arises from the order dated 9th March, 2016 made in W.P.No.35937 of 2015, which was filed by the first respondent herein, seeking a direction against respondents 2 to 4 herein to issue a fresh cheque for a sum of Rs.18,25,652/- for the work executed by the first respondent herein / writ petitioner in relaying the black-top roads at the forest road between Paramananthal and Melpattu at Chengam Range in Tiruvannamalai South Forest Division between reach 5 and 6.

2 The learned Single Judge recorded the finding that the writ petitioner was entitled to a sum of Rs.18,25,652/-. He was initially given a cheque. However, the same was unsigned and could not be encashed. Thus, the writ petition was filed asking for a fresh cheque duly signed for the said amount. The appellant / 5th respondent in the writ petition had stated that the cheque was duly signed and he had not demanded 36% of the cheque amount.

3 Be that as it may, in the event the cheque bearing No.072733 dated 31st March, 2015 was not signed and could not be encashed, the first respondent is entitled to the said payment, as the issuance of the cheque itself indicates the liability of the 5th respondent / appellant herein to make payment.

4 It appears that out of two cheques of the similar amount, one cheque remained unsigned and as such, not encashable. The learned Single Judge recorded the finding in paragraph 5 of the impugned order as under :

"5.In the meanwhile, the petitioner executed following road works in Tiruvannamalai (south) Forest Division :

"relaying black top roads by using plastic wastage at the forest road between Paramananthal and Melpattu at Chengal Range in Thiruvannamalai South Forest Division between reach 5 and 6."

6.The total value of the work executed is Rs.40 lakhs (Rs.20Lakh for each reach). The cheque value after deduction is Rs.36,51,304/- (each reach Rs.18,25,652/-). On 31.03.2015, the

Assistant, District Forest Office, South Forest Division, Tiruvannamalai by name Manivannan called upon the petitioner to come and collect the cheque from the office for a sum of Rs.18,25,652/- for each reach. The petitioner went to the office of the 5th respondent on 31.03.2015 and met the said Assistant and signed in cheque issue register for being acknowledged the receipt of two cheque leafs bearing Nos.072721 and 072733 each for Rs.18,25,652/-."

and finally passed the order as under :

"13.It is not in dispute that the petitioner is entitled for the cheque amount of Rs.18,25,652/-. That being so, this Court without going into other aspects made in the affidavit as well as in the counter affidavit, directs the petitioner to submit a fresh representation to the respondents 1 to 3 within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the respondents 1 to 3 are directed to consider the representation of the petitioner, on merits and in accordance with law and issue a fresh cheque to the petitioner for a sum of Rs.18,25,652/- within a period of two weeks, thereon. "

5 We have examined the case from all angles. We do not find any infirmity or illegality in the order sought to be impugned in this appeal.

6 Resultantly, the writ appeal stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Principal Secretary,
Environment and Forests Department,
State of Tamil Nadu,
Secretariat
Chennai-600 009.

2.The Principal Chief Conservator of Forests (HOFF),
Panagal Maligai,
Saidapet, Chennai-600 015.

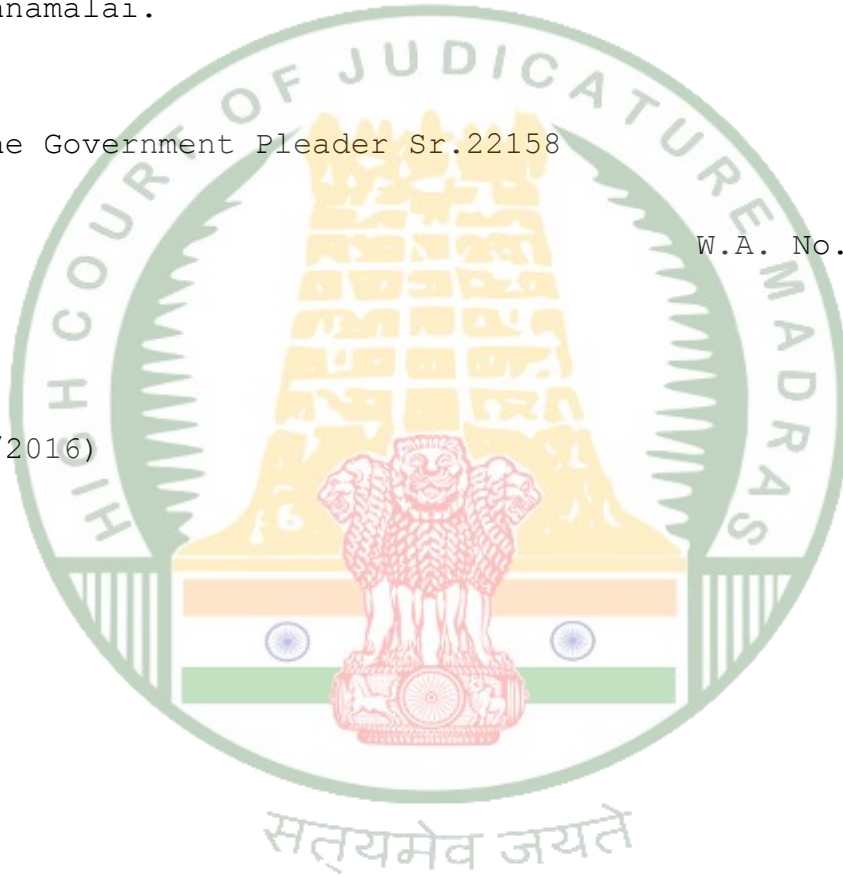
3.The Chief Conservator of Forests,
Planning and Development,
Panagal Maligai,
Saidapet, Chennai-600 015.

4.District Forest Officer,
South Forest Division,
Tiruvannamalai.

+1cc to the Government Pleader Sr.22158

W.A. No.403 of 2016

tej (CO)
srg (27/04/2016)



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