

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.33190 of 2016 &

W.M.P.No.28714 of 2016

V.Murugesan Chettiar .. Petitioner

Versus

1.The Commissioner,  
H.R. & C.E. ADMN. Department,  
Chennai-34.

2.The Joint Commissioner,  
H.R. & C.E. (ADMN.) Department,  
Tiruchirapalli.

3.The Assistant Commissioner,  
H.R. & C.E., (ADMN.) Department,  
Tiruchirapalli.

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records in order in R.Dis.A.P.No.43/2014 (D2), dated 04.03.2015 passed by the first respondent and quash the same.

For Petitioner : Mr.S.Ramadurai

For Respondents : Mr.M.Maharajan  
Special Government Pleader

O R D E R

Heard Mr.S.Ramadurai, learned counsel appearing for the petitioner and Mr.M.Maharajan, learned Special Government Pleader, accepting notice on behalf of respondents. With the consent of the learned counsel on either side, the Writ Petition itself is taken up for disposal.

2. The petitioner has challenged the order passed by the first respondent, dated 04.03.2015 in A.P.No.43/2014. This Appeal Petition was filed by the petitioner under Section 69(1) of the Tamil Nadu H.R. & C.E. Act, 1959, against the order passed by the Joint Commissioner, H.R. & C.E., Trichy, dated 28.11.2013, dismissing the Application in O.A.No.2 of 2009 filed under Section 63(b) of the H.R. & C.E. Act.

3. It is not in dispute that the petitioner as well as his counsel did not appear before the first respondent and they remained ex-parte. However, even in such cases, when the Appellate Authority passes ex-parte order, he has to discuss the matter on merits. If the parties do not appear before the first respondent, then, the first respondent would be justified in dismissing the Appeal in default. But, however, when the Authority chose to go into the merits of the matter, reasons have to be assigned, which is absent in the impugned order.

4. In any event, the Courts have held that if parties do not appear, the proceedings should be dismissed for default and the Authorities should not go into the merits of the matter. In the light of the inherent defects in the impugned order, the same calls for interference.

5. Accordingly, the Writ Petition is allowed and the impugned order is set-aside and the Appeal is restored on the file of the first respondent to be heard and decided, after hearing the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

r n s  
To

1.The Commissioner,  
H.R. & C.E. ADMN. Department,  
Chennai-34.

2.The Joint Commissioner,  
H.R. & C.E. (ADMN.) Department,  
Tiruchirapalli.

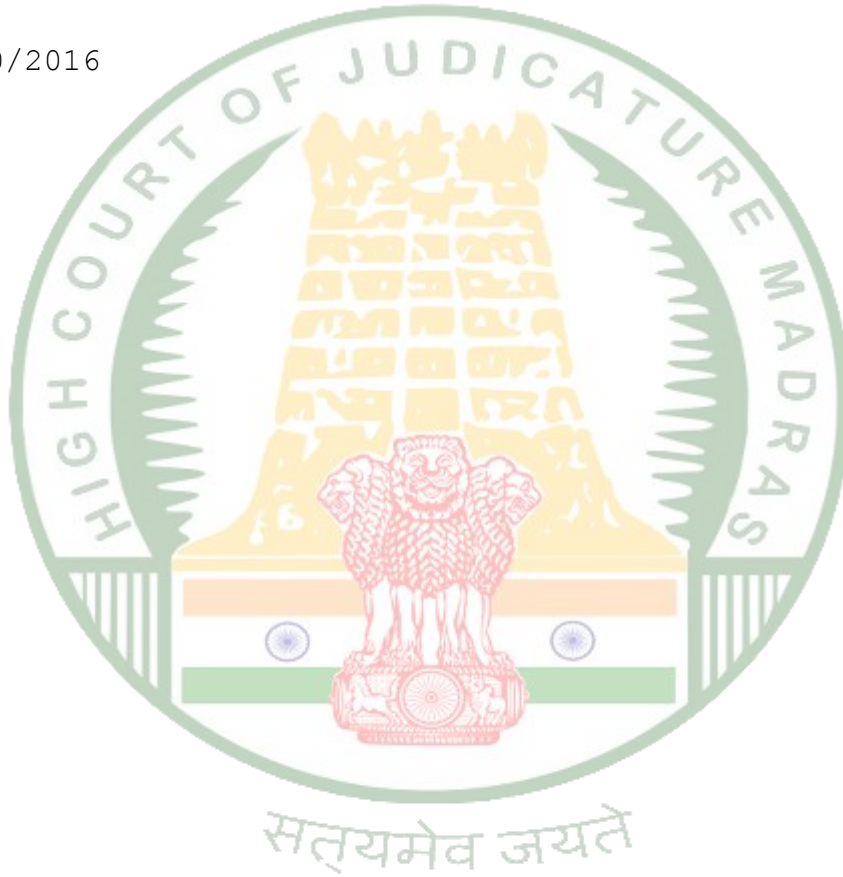
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3.The Assistant Commissioner,  
H.R. & C.E., (ADMN.) Department,  
Tiruchirapalli.

+1 CC to Mr. S. Ramadurai, Advocate Sr.No.53850

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KGK (CO)  
MD : 20/10/2016



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