

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.35597 of 2016
and WMP.No.30603 of 2016

D.Prabhu

.. Petitioner

vs.

1.The Government of Tamil Nadu,
Rep. by the Secretary,
Industries (MIC-II) Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Sugar,
No.690, Anna Salai,
Nandanam, Chennai-600 035.

3.The Managing Director,
Chengalrayan Cooperative Sugar Mills Ltd.,
Periyasevalai-607 209,
Ulundurpet Taluk,
Villupuram District.

4.Mr.S.Dhanasekarn

5.R.Jayakumar

6.R.Pandian

7.D.Mohan

8.S.Thangamani

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the entire records of the third respondent in respect of the Show Cause Notice in Na.Ka.No.105/2016E2 dated 27.07.2016 and quash the same.

For Petitioner : Mr.A.V.Arumugam

For Respondents: Mr.L.P.Shanmugasundaram,
Special Govt. Pleader for R1 and R2
Mr.R.Bala Ramesh,
Additional Govt. Pleader for R3

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Certiorari to quash the order of the third respondent in respect of the Show Cause Notice in Na.Ka.No.105/2016E2 dated 27.07.2016.

2. The petitioner joined the third respondent Mill on 02.07.1988 by the proceedings of the third respondent dated 22.06.1988 as Cane Officer and the said sugar mill has been registered under the Tamil Nadu Cooperative Societies Act. The petitioner was transferred to Ambur Cooperative Sugar Mills in the year 1994 and without joining in the transferred placed, the petitioner challenged the order of transfer by filing W.P.No.21290 of 2014 and this Court dismissed the said writ petition, against which the petitioner filed W.A.No.722 of 1997 which was allowed and the transfer order was quashed on the ground that each unit is a separate entity governed by separate byelaws and hence, the petitioner was reposted to the third respondent, vide communication dated 28.10.1997 of the second respondent. While so, on 07.05.2016, the petitioner was issued with a charge memo by the third respondent alleging as follows:

(a) That the petitioner failed to discharge his duty in responsible manner and created problems against Industrial peace.

(b) That the petitioner engaged in criminal offence with intention and without any information or permission from the management lodged a complaint by misrepresenting the facts.

(c) That the petitioner acted independently without obeying the rules and regulations of the management.

(d) That the petitioner caused grievous hurt by creating chaos and quarelled during office hours in the office premises.

(e) That the petitioner damaged the reputation of the mill/factory.

The petitioner has sent a reply dated 16.05.2016 to the Charge Memo and thereafter, an Enquiry Officer was appointed to conduct enquiry, but the petitioner was not served with the documents relied on by the Enquiry Officer and the petitioner has also raised the preliminary issue that according to Section 75 of the Tamil Nadu Cooperative Societies Act, 1983 and G.O.Ms.No.68 dated 01.03.2011 (Industries) MIC 2 Department in respect of revival of common cadre system, the third respondent has no jurisdiction and is not the competent authority either to issue the charge memo against Category 'B' officers or to issue suspension order. The petitioner therefore filed W.P.No.18347 of 2016 challenging the suspension order dated 26.04.2016 and this Court has granted an order of interim stay dated 25.05.2016. On completion of enquiry, a second show cause notice was issued, but along with the second show cause notice, enquiry report was not annexed and hence, the petitioner made a detailed representation dated 02.08.2016 seeking to furnish the following documents:

(a) Inquiry Report dated 08.07.2016

(b) Order of the Managing Director dated 27.07.2016

(c) Proceedings of the Enquiry Officer dated 25.06.2016.

Since, no response was forthcoming on his representation, the petitioner has come forward with this writ petition.

3. When the matter is taken up for consideration, the learned counsel appearing for the petitioner submitted that he has raised objection as to the jurisdiction of the third respondent with regard to issuance of charge memo, but the same was not considered and further, the documents relied on by the Enquiry Officer was not furnished to the petitioner before issuing the second show cause notice and hence, prays for setting aside the impugned order.

4. However, Mr.R.Bala Ramesh, learned Standing Counsel for the third respondent would submit that the documents as sought for by the petitioner will be furnished immediately.

5. The aforesaid submission of the learned Standing Counsel for the third respondent is recorded. In view of the submission made by the learned Standing Counsel for the third respondent, this Court is not inclined to quash the impugned order. However, insofar as the other objections raised by the learned counsel appearing for the petitioner, the petitioner is at liberty to put forward the same by way of reply to the second show cause notice, as soon as receipt of the documents as sought for by him within a period of three weeks from the date of receipt of a copy of this order.

6. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

jvm

To

1.The Secretary,
The Government of Tamil Nadu,
Industries (MIC-II) Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Sugar,
No.690, Anna Salai,
Nandanam, Chennai-600 035.

3.The Managing Director,
Chengalrayan Cooperative Sugar Mills Ltd.,
Periyasevalai-607 209,
Ulundurpet Taluk,
Villupuram District.

+2ccs to M/s. V. Arumugam, Advocate, S.R.No.57921

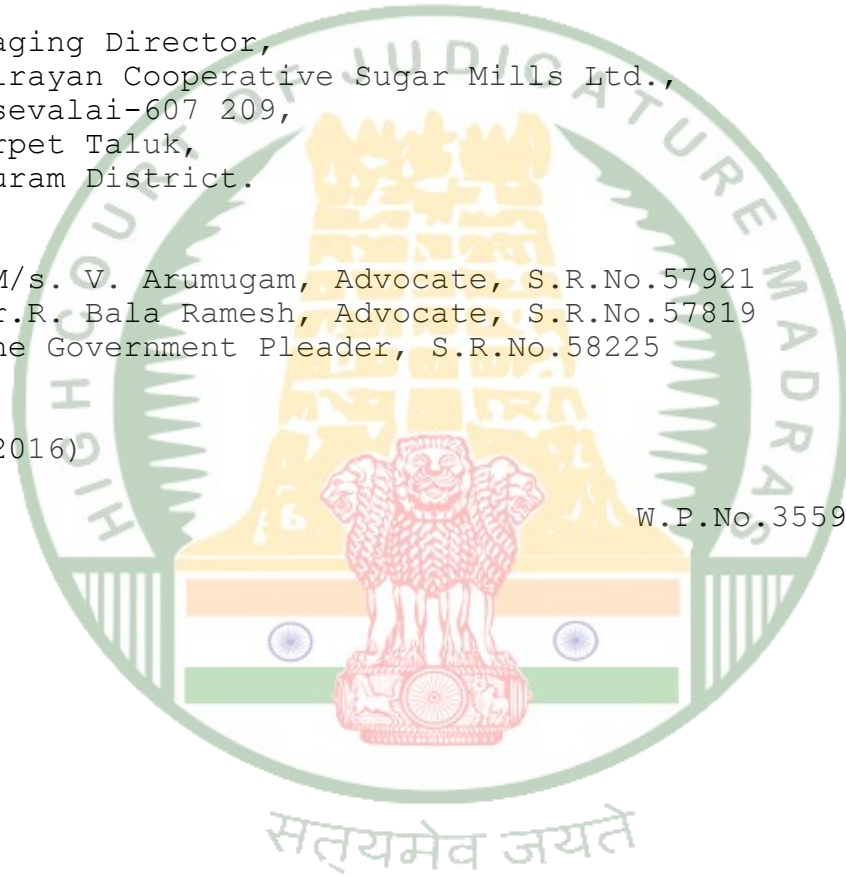
+1cc to Mr.R. Bala Ramesh, Advocate, S.R.No.57819

+1cc to the Government Pleader, S.R.No.58225

CTK(CO)

EU(21/10/2016)

W.P.No.35597 of 2016



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