

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.02.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.6398/2016 & WMP.Nos.5697 & 5698/2016

P.Dayanidhi

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Petitioner

Versus

1.The President
Palacode Town Panchayat
Palacode, Dharmapuri District.

2.The Executive Officer
Palacode Town Panchayat
Palacode, Dharmapuri District.

3.The President
Anna Kamaraj Perundu Nilaya
Kadaikarargal Nala Sangam,
Bus Stand, Palacode,
Dharmapuri District.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records relating to the proceedings of the 2nd respondent in Na.Ka.No.560/2014/A1 dated 28.01.2016 and quash the same.

For Petitioner : Mr.S.Raveekumar

For RR 1 & 2 : Mr.R.M.Muthukumar, AGP

ORDER

Heard the learned counsel for the petitioner and Mr.R.M.Muthukumar, learned Additional Government Pleader, accepting notice on behalf of the respondents 1 and 2 and with their consent, the writ petition is taken up for final disposal at the admission stage itself.

2 The petitioner has filed the above writ petition challenging the impugned order of the 2nd respondent dated 28.01.2016, with a prayer to quash the same.

3 The petitioner was granted a permission to carry on vending in a vacant area near the Palacode Town Panchayat Bus Stand, by proceedings dated 11.07.2014. It appears that one K.Raja, claiming to be the Vice-President of Anna Kamaraj Perundu Nilaya Kadaikarargal Nala Sangam, filed a writ petition in WP.No.10907/2015 to direct the respondent therein, viz., the Executive Officer of the Palacode Town Panchayat, to conduct tender/auction following due process of law, by taking into consideration the representation of the petitioner therein dated 23.03.2015. The said writ petition was disposed of by an order dated 16.04.2015 by observing that without going into the merits of the said representation, the Executive Officer of the Palacode Town Panchayat was directed to consider the same in accordance with law, after putting on notice the persons concerned and pass orders as expeditiously as possible, not later than four weeks from the date of receipt of a copy of the order, pursuant to which, the impugned order came to be passed.

4 Firstly, it has been pointed out that the impugned order is not in accordance with the direction issued by this Court in the earlier writ petition, wherein specifically this Court has directed that the representation should be considered after putting on notice, the concerned persons. Learned counsel for the petitioner would submit that the petitioner is a small vendor who vend fruits and other articles in a push cart and the cart is parked in the area which has been allotted to them. Further, it is submitted that the allegation made by K.Raja, the Vice-President of the said Sangam, which was referred to in the order passed in WP.No.10907/2015 does not pertain to the petitioner and it is some other person.

5 In the light of the above, it is clear that the impugned proceedings has been passed in violation of the principles of natural justice. However, for this reason, this Court is not inclined to quash the impugned proceedings ; but to direct the petitioner herein to consider the same as a show cause notice and the petitioner shall submit his reply/objection along with all the documents to the 2nd respondent, who shall consider the same and pass orders on merits and in accordance with law, after notice to the petitioner herein.

6 The petitioner is directed to submit his objection/reply within a period of two weeks from the date of receipt of a copy of this order. On receipt of such reply/objection, after putting on notice the petitioner herein, the 2nd respondent shall consider the same and pass orders on merits and in accordance with law within a period of two weeks thereafter.

7 It is made clear that till orders are passed by the 2nd respondent in terms of the above direction, the impugned proceedings shall be kept in abeyance.

8 The writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The President
Palacode Town Panchayat
Palacode, Dharmapuri District.

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Palacode, Dharmapuri District.

3.The President
Anna Kamaraj Perundu Nilaya
Kadaikarargal Nala Sangam,
Bus Stand, Palacode,
Dharmapuri District.

+1 cc to Mr.E.Maharajan Advocate sr.11162

सत्यमेव जयते

WP.No.6398/2016

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