

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2016

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P.No.19203 of 2006

& M.P.Nos.1 & 2 of 2006

T.A.Jothi

.. Petitioner

Versus

1.State of Tamil Nadu Rep. by
Secretary to Government,
Public Works Department,
Secretariat, Chennai - 9.

2.Special Commissioner and
Commissioner of Stationery and Printing,
110, Anna Salai, Chennai -2.

3.The Assistant Director (Estt.),
Government Central Press,
Chennai - 79.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking for a Writ of certiorari to call for the records connected with proceedings Dir.No.21355/E5/2001 dated 27.03.2003 of the Director of Stationery and Printing, Chennai; Proceedings Comm.No.E2/2650/2005, dated 20.11.2005 of the Special Commissioner and Commissioner of Stationery and Printing, Chennai and Letter C.P.No.A1/8553/06, dated 18.05.2006 of the Assistant Director (Estt.), Govt. Central Press, Chennai -79 and quash the same.

For Petitioner : Mr.R.Manoharan

For Respondents : Mr.P.Sanjay Gandhi, AGP

O R D E R

The prayer in the Writ Petition is for issuance of Writ of certiorari to call for the records connected with proceedings Dir.No.21355/E5/2001 dated 27.03.2003 of the Director of Stationery and Printing, Chennai; Proceedings Comm.No.E2/2650/2005, dated 20.11.2005 of the Special Commissioner and Commissioner of Stationery and Printing, Chennai and Letter C.P.No.A1/8553/06, dated 18.05.2006 of the Assistant Director (Estt.), Govt. Central Press, Chennai -79 and quash the same

2. It is the case of the petitioner that the impugned order dated 27.03.2003 was issued by the respondents without giving any notice or any opportunity of hearing to her.

3. Heard both sides.

4. The learned counsel appearing for the petitioner would submit that the impugned order dated 27.03.2003 is in the nature of adversely affecting the interest of the petitioner, as notice had not been given and an opportunity of hearing had also not been given. Failing to give an opportunity or notice before passing the impugned order, vitiates the very impugned order. Therefore the impugned order is not sustainable.

5. Per contra, the learned Additional Government Pleader submits that only the excess payment made to the petitioner and similarly placed persons alone, are sought to be recovered and procedures were followed before issuance of the order.

6. Considering the available materials placed before this Court, it is seen that there is no prior notice or opportunity of being heard, given to the petitioner before passing the impugned order dated 27.03.2003. Prima facie, this Court, in the initial stage, granted interim order of stay of recovery. For the said reason of non-issuance of notice or opportunity of hearing the petitioner, the impugned order can be assailed and therefore, it is liable to be set aside insofar as the petitioner is concerned. Consequently, when the impugned order dated 27.03.2003 suffers from violation of principles of natural justice, consequential impugned orders also would not stand in the eye of law. Accordingly, they are also to be quashed.

7. However, insofar as the liability of the petitioner to pay back some excess amount already paid by the respondents, it can very well be decided by the respondents, of course, after affording an opportunity of hearing to the petitioner.

8. In the result, the Writ Petition is allowed and the impugned order dated 27.03.2003 and the consequential orders dated 20.11.2005 and 18.05.2006 are set aside. It is open for the respondents to take a fresh decision as to whether the petitioner is liable to pay back any amount and the same can be re-covered from her and in this regard, the petitioner is at liberty to make her written statement or produce records to show that she is not liable to be recovered any amount and if such written statement is made by way of supporting documents, the same shall be considered by the respondents objectively and a reasoned order shall be passed.

9. With the above observations and directions, this Writ Petition is allowed without costs. Consequently, connected M.Ps. are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

pvs

To

- 1.State of Tamil Nadu Rep. by
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2. Special Commissioner and
Commissioner of Stationery and Printing,
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- 3.The Assistant Director (Estt.),
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+1cc to M/s R.Manoharan, Advocate Sr.58680

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SK(CO)
RVR 12/11/2016

सत्यमेव जयते

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