



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2016

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD) No.24030 of 2016 and
W.M.P.(MD) No.17337 of 2016

A.Pandi Daniel

... Petitioner

-vs-

1. The Commissioner of Municipal Administration,
Rural Development and Panchayat Department,
Chennai.

2. The Commissioner,
Pudukkottai Municipality,
Pudukkottai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, directing the 2nd respondent to call for the records, relating to his order in Na.Ka.No.23649/2012/C1 dated 29.11.2016 issued by the 2nd respondent and quash the same as illegal arbitrary and unjust.

For Petitioner : Mr.G.Kandha Vadivelan

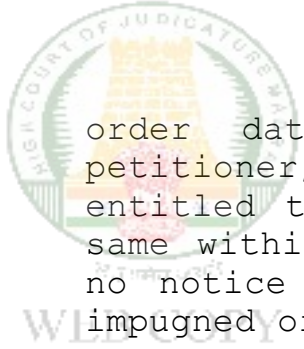
For R1 : Mr.S.Sathish Kumar
Addl.Govt. Pleader

For R2 : Mr.P.Magendran

O R D E R

This petition has been filed, seeking to quash the impugned order dated 29.11.2016 passed by the 2nd respondent in Na.Ka.No.23649/2012/C1, by which the petitioner was directed to vacate his residential quarters within seven days on the ground that the employee working on consolidated basis is disentitled to quarters as per the Rule of the 2nd respondent Municipality. The said eviction order is under challenge in this writ petition.

2. According to the petitioner, he joined as Part-Time Panchayat Clerk in Pudukkottai Panchayat and has been residing in the same address mentioned in the cause title; that the said Pudukkottai Panchayat got merged with the 2nd respondent Municipality and the petitioner's service was regularized and he has been brought on regular scale of pay applicable to a permanent employee, that the petitioner was subsequently, allotted residential quarters and all of a sudden, the impugned eviction



order dated 29.11.2016 has been issued, stating that the petitioner, being an employee on consolidated wages, is not entitled to any quarters, thereby he was directed to vacate the same within seven days. It is pointed out by the petitioner that no notice has been issued to the petitioner before passing the impugned order, however, he has given reply on 30.11.2016.

3. The 2nd respondent has contended that even though the petitioner's request for permanency has been recommended, he is only an employee drawing consolidated wages and that it is only a notice, for which, the petitioner will have to give reply. It is represented that the 2nd respondent has already informed the petitioner that he would be entitled to alternative accommodation.

4. Heard the learned counsel on either side.

5. It is not in dispute with regard to the initial appointment of the petitioner. Even though the respondent has stated that the petitioner's case for regularization has been recommended, the fact that the petitioner has been paid Special pay, Dearness Allowance, HRA etc. would go to show that the petitioner was not employed on consolidated wages, which is evident from the pay certificate dated 01.07.2016. It is also seen that recommendation for permanent absorption of the petitioner was forwarded in the year 2012.

6. In any event, the 2nd respondent has agreed to provide alternative accommodation to the petitioner. Though there is no evidence adduced before this Court that the petitioner has already sent a reply to the respondent, the petitioner has submitted that it was sent as early as on 30.11.2016.

7. Under such circumstances, the respondents shall consider the reply given by the petitioner and take a decision thereon with regard to allotment of quarters to the petitioner in the place of his choice within a period of two months from the date of receipt of a copy of this order, preferably on or before 28.02.2017. Till such time, the petitioner shall not be disturbed. However, it is made clear that the total extent of accommodation (in sq.ft) shall not be less than the one, which the petitioner is enjoying now.

With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(C.O)



To:

1. The Commissioner of Municipal Administration,
Rural Development and Panchayat Department,
Chennai.

2. The Commissioner,
Pudukkottai Municipality,
Pudukkottai.

+One cc to Mr.G.Gandhavadivelan, Advocate, SR.No.81352

+One c to Mr.P.Mahendran, Advocate, SR.No.81086

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RL/5C/3P/PM/AM1/23.1.2017

W.P.(MD) No.24030 of 2016
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