



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2016

WEB COPY

CORAM

THE HONOURABLE MR. JUSTICE M. VENUGOPAL

Writ Petition No.9832 of 2016

M.S.Rajasekaran

... Petitioner

Vs.

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
Thambusamy Street,
Kilpauk,
Chennai 600 010.

2. The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Thanjavur Region,
Thanjavur.

3. The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Pudukkottai Region,
Pudukkottai.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the 1st respondent to consider and pass orders on the petitioner's appeal dated 04.04.2016 to refund the deposited amount of Rs.6,25,894/- to the petitioner.

For Petitioner : Mr.T.Lenin Kumar
For Respondents : Mr.D.Mayarajan
for RR-1 to 3

ORDER

Heard both sides.

2. By consent, the main writ petition itself is taken up for final disposal.

<https://hcservices.ecourts.gov.in/hcservices/>

3. According to the petitioner, he is the Proprietor of



Palanikumar Transports, Pattukottai and in the year 1990, he was appointed as a Transport Contractor by the 2nd respondent/Senior Regional Manager, Tamil Nadu Civil Supplies Corporation, Thanjavur Region through open tender. Since then, the transport contract is being extended periodically.

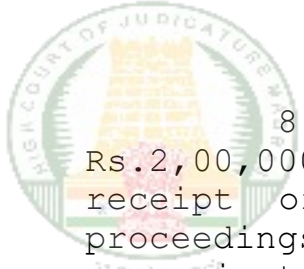
WEB COPY

4. During the course of business, the 2nd respondent/Senior Regional Manager, Tamil Nadu Civil Supplies Corporation, Thanjavur Region, directed the petitioner to transport 550 bags of rice from Ammanpettai Modern Rice Mill to Tamil Nadu Civil Supplies Corporation, Thiruvallur. Therefore, on 23.11.2013, he engaged a lorry bearing registration No. TN 28 AH 9183 on hire and at about 3.30 p.m, 550 bags were loaded in the vehicle through truck memo T586302243. Thereafter, the lorry proceeded to Thiruvallur. At this juncture, on 25.11.2013, the lorry had not reached the destination and the same was seized by the Inspector of Police, CSCID, Thanjavur on the allegation that one Jeyaraman, who was the Quality Inspector, Tamil Nadu Civil Supplies Corporation, Nagercoil (now under suspension) along with one Madhavan who was the Quality Inspector of Tamil Nadu Civil Supplies Corporation, Thiruvallur colluded with the driver of the vehicle and attempted to smuggle the rice.

5. It appears that in crime No. 480 of 2013, a case was registered in respect of an offence u/s. 6(4) of TNSC (RDCS) Order 1982 r/w. 7(1)(a)(ii) of Essential Commodities Act, 1955 against the said Jeyaraman and 5 others.

6. In this connection, the stand of the petitioner is that in the FIR, no word was uttered against him and after seizure of the rice bags, the same were produced before the 3rd respondent.

7. The Learned Counsel for the Petitioner submits that on 25.11.2013, the 2nd respondent through his proceedings in Na.Ka.No.G112539/2013 issued a show-cause notice to the petitioner as to why he should not be blacklisted and the loss amount should not be collected from him. The petitioner sent a communication to the 2nd respondent requesting him to give a copy of the FIR and thereafter, the 2nd respondent through proceedings in Na.Ka.No.G112539/2013 dated 06.12.2013 informed him that FIR copy may be collected from the police department. Thereafter, on 16.12.2013, he sent his explanation to the 2nd respondent together with the copy of the FIR etc., and after receipt of the explanation, the 2nd respondent through his proceedings in Na.ka.No.G3/14936/2013 dated 08.01.2014 directed him to pay the loss amount of Rs.6,25,894/- to the credit of Tamil Nadu Civil Supplies Corporation, Thanjavur Region, failing which the security amount of Rs.10,00,000/- would be forfeited.



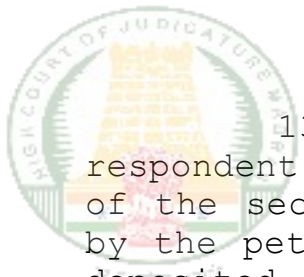
8. To show his bonafide, the petitioner paid a sum of Rs.2,00,000/- on 28.01.2014 and Rs.4,25,894/- on 06.02.2014. After receipt of the said amount, the 2nd respondent through his proceedings in Na.ka.No.G3/14936/2013 dated 08.01.2014 sent a communication to the 1st respondent/Managing Director, Tamil Nadu Civil Supplies Corporation, Chennai, requesting him to pass appropriate order to allow him to continue his transport contract. Since he was not allowed to continue his external transport, on 19.02.2014, he made a representation to the 2nd respondent. The 2nd respondent, after receipt of the representation, once again sent a communication through his proceedings in Na.ka.No.G3/14936/2013 dated 06.03.2014 to the 1st respondent, reiterating the very same request.

9. The 2nd respondent through proceedings in Na.Ka.No.G3/14936/2013 dated 03.07.2014 blacklisted the petitioner and that the second respondent had passed the said order without providing an opportunity of hearing to the petitioner and therefore, the petitioner was constrained to file W.P.(MD). No.13703 of 2014 before this Court and on 20.08.2014, this Court set aside the order of the second respondent, dated 03.07.2014, by granting liberty to the 2nd respondent to conduct an enquiry pursuant to the show cause notice.

10. It was further ordered that till such order passed by the 2nd respondent, the petitioner was permitted to continue as Transport Contractor of the respondent corporation.

11. It is to be pointed out that pursuant to the order of this Court, an Enquiry Officer was appointed and the Enquiry Officer conducted the enquiry on 06.12.2014 and 13.12.2014 and the petitioner appeared before the Enquiry Officer on such dates without fail. After completion of enquiry, the Enquiry Officer projected his report to the effect that the petitioner is no way responsible to the loss occurred to the respondent corporation and one Madhavan, who was the Quality Inspector, Tamil Nadu Civil Supplies Corporation, Thiruvallur District, conspiring with 5 persons attempted to sell the 550 bags of rice in open market and hence there was a loss to the respondent corporation etc.,

12. At this stage, the Learned Counsel for the Petitioner brings it to the notice of the Court that the report of the Enquiry Officer was filed in favour of the petitioner on 24.11.2015 and hence, the petitioner made a representation before the respondents to refund a sum of Rs.6,25,894/- to him. After receipt of the representation, the 2nd respondent through his proceedings in Na.Ka.No.G3/14936/2013 dated 09.03.2016 rejected his representation without assigning any valid reason and the said speaking one and the same is bereft of substantial reasons.



13. The petitioner had filed an appeal before the 1st respondent on 04.04.2016 as an aggrieved person against the order of the second respondent dated 09.03.2016. The appeal was filed by the petitioner in the month of April 2016. Since the amount deposited before the second respondent was not refunded, the grievance of the petitioner that he is paying monthly interest in respect of the aforesaid amount and since he is in stringent financial condition and was punished for the offence committed by others, he has filed the present writ petition seeking for passing of an order by this court in directing the first respondent to consider and dispose of his appeal dated 04.04.2016 and to refund the deposited sum of Rs.6,25,894/- to him.

14. In response, the Learned Counsel appearing for the Respondents informs this Court that the appeal filed by the petitioner would be disposed of by the first respondent within a reasonable period of time.

15. Considering the fact that the petitioner's appeal is pending as on date before the first respondent/Managing Director, TamilNadu Civil Supplies Corporation, Chennai-10, this Court, taking note of the fact that the petitioner in the writ petition has expressed about his stringent financial condition and also because of the reason that the amount was not refunded to him, this Court, without delving deep into the merits of the controversies between the parties and not expressing any opinion in the subject matter in issue, simpliciter, to prevent an aberration of Justice and furtherance of substantial cause of Justice, directs the first respondent to take up the pending appeal filed by the petitioner, within a period of 10 days from the date of receipt of a copy of this order and thereafter to dispose of the main appeal within a period of four weeks from the date of receipt of a copy of this order. The first respondent is directed to provide necessary opportunity to the petitioner and the first respondent is to pass a reasoned order on merits (of-course by outlining the process of reasoning in a qualitative and quantitative fashion) in an unbiased and dispassionate manner, within the time adumbrated supra.

16. With the aforesaid observations and directions, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar



To

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
Thambusamy Street,
Kilpauk,
Chennai 600 010.

2. The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Thanjavur Region,
Thanjavur.

3. The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Pudukkottai Region,
Pudukkottai.

+ 1 CC TO MR.D.MAYARAJAN, ADVOCATE IN SR No. 27713

+ 1 CC TO MR.T.LENINKUMAR, ADVOCATE IN SR No. 27718

VS

TE/SKS-RR/SAR-I : 09/06/2016 : 5P/6C

Writ Petition (MD).No.9832 of 2016
03.06.2016