

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.10.2017

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.20422 of 2014
and
M.P.Nos.1 & 2 of 2014

P.Sivakumar

..Petitioner

vs

1.The District Manager,
Tamil Nadu State Marketing Corporation
Orikkai Industrial Estate,
Kancheepuram

2.The Sub-Inspector of Police,
PEW. Kancheepuram
(Cr.No.111/12)

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records and to quash the proceedings in Na.Ka.No.13/R1/2012 dated 10/7/2012 and consequently, direct the first respondent to reinstate the petitioner in service as a Salesman in Tamil Nadu state Marketing Corporation owned Liquor Retail Sales Shop bearing No.4381 situated at Musaravakkam, Baluchettychatram Main Road, Kancheepuram District with retrospective effect from the date of his suspension, with all attendant benefits.

For Petitioner : Mr.T.Dharani

For Respondents : Mr.P.Arumuga Rajan - R1
Mr.A.Raja Perumal - R2
Addl.Govt.Pleader

O R D E R

The notice of enquiry issued to the petitioner in memo dated 10.07.2012 is under challenge in this writ petition.

2.The petitioner has joined as Salesman in Tamil Nadu State Marketing Corporation on 07.07.2010 and was posted in a TASMAL shop. The petitioner was arrested by the 2nd respondent and a criminal case was registered in Crime No.111/12 under Section 24 (A) of the Tamil Nadu Prohibition Act read with 272 & 420 of I.P.C. The allegation against the writ petitioner is that he has attempted to sell Liquor with diluted water. On account of

the allegation, departmental enquiry was initiated against the petitioner and a charge memo was issued on 05.06.2012. The petitioner submitted his representation on 19.6.2012 and a notice of enquiry was issued on 10.07.2012.

3. On a perusal of the notice, it is clear that the Depot Manager, Tasmac, Kancheepuram is appointed as an enquiry officer and the petitioner should appear before the enquiry officer on 17.07.2012. This notice prompted the writ petitioner to move this writ petition under Article 226 of the Constitution of India. No writ can be entertained against a notice, calling for an employee to participate in the enquiry. Such a notice can be challenged if the same was passed by the incompetent authority having no jurisdiction or the same is in violation of the statutory rules. In the absence of any of these legal grounds, the notice of enquiry cannot be challenged and this Court cannot entertain a writ petition in this regard. It is left open to the writ petitioner to participate in the enquiry proceedings and prove his innocence in accordance with law.

4. Thus, this Court is of the view that the writ petitioner should participate in the process of enquiry and prove his innocence by producing witnesses, documents or other relevant files. The disciplinary proceedings initiated by the competent authority shall be allowed to be completed in all respects and intermittent intervention in disciplinary proceedings are not preferable and the judicial review in this regard is limited. Thus, this Court is not inclined to consider the grounds on merits raised in this writ petition. However, the competent authorities are bound to conclude the disciplinary proceedings as early as possible without causing any further delay and the delay in concluding the disciplinary proceedings will cause prejudice to the writ petitioner.

5. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The District Manager,
Tamil Nadu State Marketing Corporation
Orikkai Industrial Estate,
Kancheepuram

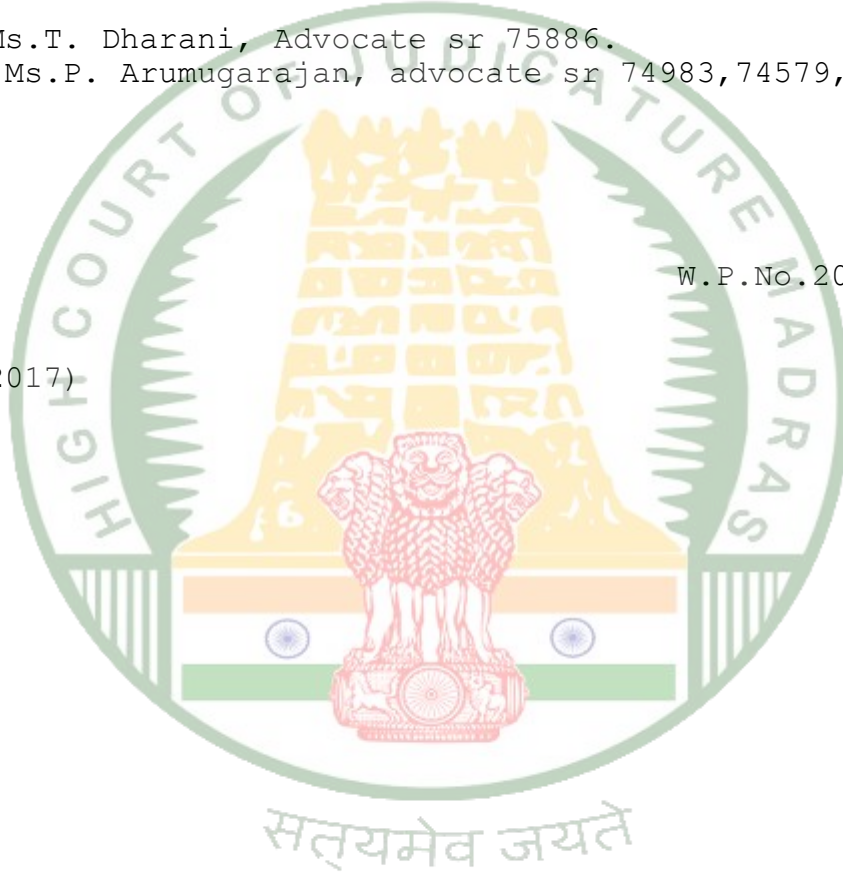
2.The Sub-Inspector of Police,
PEW. Kancheepuram
(Cr.No.111/12)

+1 CC to Ms.T. Dharani, Advocate sr 75886.

+3 Ccs to Ms.P. Arumugarajan, advocate sr 74983,74579,75810

W.P.No.20422 of 2014

VGI (CO)
SP (22/11/2017)



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