

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2017

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE M.SUNDAR

W.P.No.2369 of 2017
and
W.M.P.No.2354 of 2017

M.Gagan Bothra

... Petitioner

-Vs-

1. The Chief Secretary,
The Government of Tamil Nadu,
O/o.The Secretariat, Chennai.
2. V.Mohanraj
Deputy Secretary,
Transport Division, Secretariat,
Chennai.
3. Secretary to Government,
Transport Department,
The Secretariat, Chennai-56.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the originals of G.O. R.T. No.3086 dated 27.09.2012 passed by the Public (Special.A) Department, and to quash the same with regard to the appointment of the 2nd respondent and direct the 1st respondent to temporary suspend the 2nd respondent pending enquiry.

For Petitioner : Mr.M.Gagan Bothra
Party-in-person

For Respondents : Mr.T.N.Rajagopalan
Special Government Pleader

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

One Mr.Mukanchand Bothra is stated to have had a financial transaction of loan with V.Mohanraj, Deputy Secretary, Transport Division / the second respondent. The petitioner is the son of

Sri.Mukanchand Bothra and his special attorney in various matters. It is the case of the petitioner that the second respondent failed to return the loan and when a cheque was issued for part payment, the same was returned for want of sufficient funds. This resulted in initiation of proceedings under Section 138 of the Negotiable Instruments Act, 1881. Mr.Mukanchand Bothra is also stated to have made a representation to the Chief Secretary / the first respondent vide letter dated 22.09.2016 for institution of an enquiry against the second respondent, but since no action was taken, filed a Writ Petition No.44644 of 2016, in which notice is stated to have been issued for 07.02.2017.

2.Now, the petitioner has filed this petition styled as a public interest litigation praying for a direction seeking quashing of the appointment of the second respondent made to the post on 27.09.2012, i.e. after 4 ¼ years and directing the first respondent to suspend the second respondent pending an enquiry. This is in the background of the fact that the second respondent retires from service today.

3.We have heard the petitioner in person.

4.We find the present petition a misuse of the jurisdiction of public interest litigation. There is a private dispute which is sought to be given the colour of a public interest litigation and on the anvil of the retirement of the second respondent, this petition has been filed seeking to assail the transfer orders made years ago with the primary objective of seeking his suspension on the last date of service. As noticed, the father of the petitioner, who is the aggrieved party, himself has already filed a petition based on the same cause and seeking an enquiry through a representation and then, seeking disposal of that representation.

Writ petition is, thus, dismissed. No costs. Consequently, W.M.P.No.2354 of 2017 is also dismissed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

sra

To

1. The Chief Secretary,
The Government of Tamil Nadu,
O/o.The Secretariat, Chennai.
2. The Deputy Secretary,
Transport Division, Secretariat,
Chennai.
3. The Secretary to Government,
Transport Department,
The Secretariat, Chennai-56.

+1cc to the Government Pleader, S.R.No.6221

W.P.No.2369 of 2017

UG(CO)
CA(08/02/2017)



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