

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.36464 of 2015

and

M.P.Nos.1 & 2 of 2015

N.Krishnamurthy

... Petitioner

Vs.

- 1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.
2. The Assistant Director (Village Panchayat),
O/o. District Collectorate,
Tiruvannamalai District, Tiruvannamalai.
3. The Block Development Officer,
(Village Panchayat), Beemanathal
Panchayat, Chengam Union,
Tiruvannamalai District.
4. The President,
Beemanthal Panchayat,
Chengam Taluk, Tiruvannamalai District. ... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified calling for records on the file of the 4th respondent relating to the order issued dated 03.10.2015 and quash the same.

For Petitioner : Mr.R.Chandrasekaran

For Respondents 1-3 : Mr.S.Gunasekaran
(Additional Government Pleader)

For Respondent - 4 : MR.Jayanshi Prasad

O R D E R

The writ petitioner has filed the above writ petition relating to the notice issued by the fourth respondent in proceedings dated 03.10.2015 is under challenge.

2. On perusal of the notice dated 03.10.2015 itself states that already notices were issued to the writ petitioner on 11.08.2014, 16.06.2015 and 08.10.2015. The petitioner has not responded to the above notices and the impugned notice was issued on 13.10.2015 stating that the writ petitioner has not submitted his explanations for the earlier notices and on receipt of the impugned notice he can submit his explanations within a period of three days from the date of receipt of the notice.

3. In the event of not submitting his explanations he will be terminated from services. Further on perusal of the earlier notices the nature of allegations are set out in all the earlier notices and the writ petitioner has not submitted his explanations to the earlier notices.

4. Even now the impugned notice provides an opportunity to the writ petitioner to submit his explanations. Thus, this Court is of the view that the writ petitioner has to submit his explanations/objections on the allegations and contest his case in accordance with law and this Court cannot entertain this writ petition on merits at this point of time, in view of the fact that it is for the competent authority to consider his explanations and take a decision and pass orders in this regard. In view of this facts of this case no further adjudication on merits on the grounds raised in this writ petition requires to be considered.

5. No writ can be entertained against the show cause notice in a routine manner and the writ petition can be entertained only (i) if the show cause notice has been issued in violation of the Statutory Rules (ii) such a notice was issued by incompetent authority having no jurisdiction or (iii) on the grounds of mala fides. If any allegation of mala fide is raised against the authority, the said authority has to be impleaded as party respondent in the writ petition in his personal capacity. In the absence of any of these grounds, no writ can be entertained against the show cause notice. It is left open to the writ petitioner to submit his objections/explanations. Contrarily, the Writ Petition moved at the stage of show cause notice, which cannot be adjudicated on the merits raised in this Writ Petition.

6. Judicial review of show cause notices are very much limited and the Courts are to be cautious, while intervening with the show cause notices. Intermittent interventions against the show cause notice are certainly not preferable and the Court can entertain only on exceptional circumstances and not otherwise.

7. In this view of the matter, the writ petitioner has to submit his explanations/objections in relation to the allegations levelled against him and it is for the respondents to consider the same, based on the materials available on record and proceed further in this matter. Thus, no further adjudication or consideration on merits needs to be undertaken in respect of the grounds raised in this Writ Petition.

8. The writ petition stands disposed of accordingly. However, no order as to costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

rpa/smn

To

1. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.
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Tiruvannamalai District,
Tiruvannamalai.
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(Village Panchayat), Beemanathal
Panchayat, Chengam Union,
Tiruvannamalai District.
4. The President,
Beemanthal Panchayat,
Chengam Taluk, Tiruvannamalai District.

+1 CC to The Government Pleader Sr.No.69455

W.P.No.36464 of 2015

KP(10.10.2017)

18.09.2017



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