

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.09.2017

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP.No.8939 of 2015 and MP.No.1 and 2 of 2015

M.Paramasivam

...Petitioner

Versus

1.The Secretary to Government,
Transport Department,
Fort St.George, Chennai.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
(Salem) Ltd.
Salem-7.

3.The General Manager,
Tamil Nadu State Transport Corporation
(Salem) Ltd.
Dharmapuri Region,
Bharathipuram, Dharmapuri.

....Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of the impugned notice issued by the 2nd respondent pertaining in Ku.No.222-2222-D2 TNSTC-2015 dated 18.02.2015 and quash the same consequently direct the 2nd respondent to drop the charges framed against the petitioner.

For Petitioner-Mr.M.Selvam

For R1 -Mr.K.Dhananjayan Spl GP

For R2 &R3 -Mr.P.Paramasivadoss

ORDER

The Show cause notice issued by the 2nd respondent in proceedings dated 18.02.2015 is under challenge in this writ petition.

2. The writ petitioner was appointed in the services of the Transport Corporation in the year 1986 as Record Clerk. Subsequently, he was promoted up to the level of the Superintendent and was working under Tamil Nadu State Transport Corporation, Salem, Dharmapuri Region, Dharmapuri. On account of certain serious allegations, the respondent issued a show cause notice in proceedings dated 18.02.2015, stating that the writ petitioner has committed certain lapses and irregularities resulting in loss both on administrative side and on financial side to the Corporation. In this regard, the allegations are set out in the show cause notice impugned and the writ petitioner was directed to submit his explanation on the allegation. After submitting the explanation/objections, the writ petitioner moved this writ petition. It is pertinent to note that an enquiry notice was also issued in proceedings dated 13.03.2015. The writ petitioner even before appearing for enquiry moved this writ petition by challenging the very show cause notice.

3. No writ can be entertained against the show cause notice in a routine manner and the writ can be entertained against the show cause notice only on exceptional circumstances, if any show cause notice was issued by an incompetent authority or by an authority having no jurisdiction or allegation of malafides are raised. Even in case of raising allegation of malafide, the authority against whom such an allegation is raised to be impleaded as a party respondent in the writ proceedings in his personal capacity. If any show cause notice was issued in violation of the statutory rules, then also, the judicial review can be undertaken. In the absence of any one of this grounds, no writ can be entertained challenging the show cause notice. The impugned show cause notice was served to the writ petitioner setting out certain serious allegations. The writ petitioner also submitted his explanation / objection on the show cause notice. An enquiry notice was issued by the respondent on 13.03.2015. Instead of participating in enquiry proceedings to prove his innocence, the writ petitioner has chosen to file this writ petition. The averments set out in the writ petition are relating to merits and this Court cannot adjudicate the merits of the allegation at this stage in this writ petition. It is left open to the writ petitioner to participate in the enquiry proceedings and prove his innocence and the mere submission that the action is vindictive cannot be accepted by this Court. In the absence of any materials on record to show that the action of the respondents is vindictive. The general submission made in this regard cannot be accepted and accordingly, no further consideration on merits needs to be undertaken on the grounds raised in this writ petition.

4. Hence, the writ petition stands dismissed. No costs. Consequently connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

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Salem-7.
- 3.The General Manager,
Tamil Nadu State Transport Corporation
(Salem) Ltd.
Dharmapuri Region,
Bharathipuram, Dharmapuri.

+1 cc to the Government Pleader sr 63684
+1 cc to M/s.C.Umashankar & M.Selvam Advocate sr 63256
+1 cc to Mr.P.Paramasivadoss Advocate sr 63774

msm(co)
aa04/10/2017

WP.No.8939 of 2015

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