

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.08.2017

CORAM

THE HON'BLE Dr. JUSTICE G.JAYACHANDRAN

W.P. No.4413 of 2016
and WMP 3759 of 2016
and W.M.P.No.3760 of 2016

A.Chinnasamy

... Petitioner

Vs

The District Collector,
Collectorate
Salem District,
Salem - 1.

.... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue writ of certiotari calling for the records relating the proceedings 27.03.2015 in ROC.No.48144/2010/A2 passed by the respondent passed and quash the same.

For Petitioner : Mr.R.Mohana Raja

For Respondent : Mr.S.Babu, Government Advocate
Additional Government Pleader (Forest)

ORDER

This writ petition is filed by the petitioner seeking writ of certiorari calling for the records relating to the proceedings dated 27.03.2015 in ROC.No.48144/2010/A2 passed by the District Collector, Collectorate, Salem district, Salem -1 on the ground that the sanction to prosecute the petitioner in the alleged trap case is grudge of authority. According to the petitioner, the sanction for prosecution granted by the District Collector, Salem ought to have been done after the approval of the Government. In the absence of any approval by the Government to prosecute the petitioner, the sanction order is non-est. In support of his submissions, the learned counsel for the petitioner refers to the G.O.(D).No.98 dated 04.06.2010 issued by Personnel and Administrative Reforms (N) Department, wherein it has been stated as follows:-

"2.2 In respect of cases against Group C&D Officers, the Director of Vigilance and Anti-Corruption can recommend the course of action viz., Prosecution/Departmental action without seeking orders

from Vigilance Commissioner, direct to the Heads of Departments. There is no need for remittal orders by Government. However, Vigilance Commissioner and Commissioner for Administrative Reforms may be kept informed of such cases. For Group A&B officers, the present position may be continued

2.3 In respect of the cases against C&D Officers, if the disciplinary authority decides to drop charges, the Heads of Department will correspond with Director of Vigilance and Anti-Corruption on this and the concurrence of the Vigilance Commission for dropping action is not necessary in such cases".

2. The learned counsel for the petitioner submitted that Tahsildhar being a Grade 'D' Officer, the competent authority namely the District Collector, Salem ought to have obtained permission from the Government. On reading the order sanctioning prosecution as well as the G.O(D).No 98 referred by the learned counsel for the petitioner, this Court finds no mandate stipulated in G.O.(D) No.98 letter dated 04.06.2010 in which at paragraph No.3 clarification is given as follows:-

"As regards the clarifications pertaining to the Preliminary Enquiry, detailed enquiry, regular cases and trap cases against C&D Group officials, if involvement of A/B Group Officials is noticed, then, it will be treated as a "Common Proceedings" wherein the concurrence of the Vigilance Commissioner is necessary for the Director of Vigilance and Anti-Corruption to send the report to the Vigilance Commission by recording the involvement of the higher category officials in which the vigilance commissioner can be informed for his approval so as to forward the same with the recommendations to the Government for issue of remittal orders. As it involves a Common Proceedings there seems to be no change in the existing procedures in respect of officials involving both A&B and C&D groups".

3. This Court finds that G.O. and clarification is pertaining to remittance and for dropping proceedings and nothing to do with the grant of sanction for prosecution. The District Collector, Salem who is the disciplinary authority for Tahsildhar and competent authority to remove him from service has applied his mind and granted sanction and I find no error in the sanction order which is impugned in this writ petition.

4. The learned Government Advocate for the respondent submitted that this petitioner on the very same ground approached the trial Court filing an application to discharge him and the same was dismissed. Further revision preferred by him was also dismissed.

5. Therefore, considering the facts and circumstances, I find no merit in this case but only a deceitful attempt by the petitioner to protract the proceedings and make illusionary defence of invaliding the sanction order granted by the competent authority. Hence the writ petition is dismissed. No costs. Connected miscellaneous petition is also closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

dpq

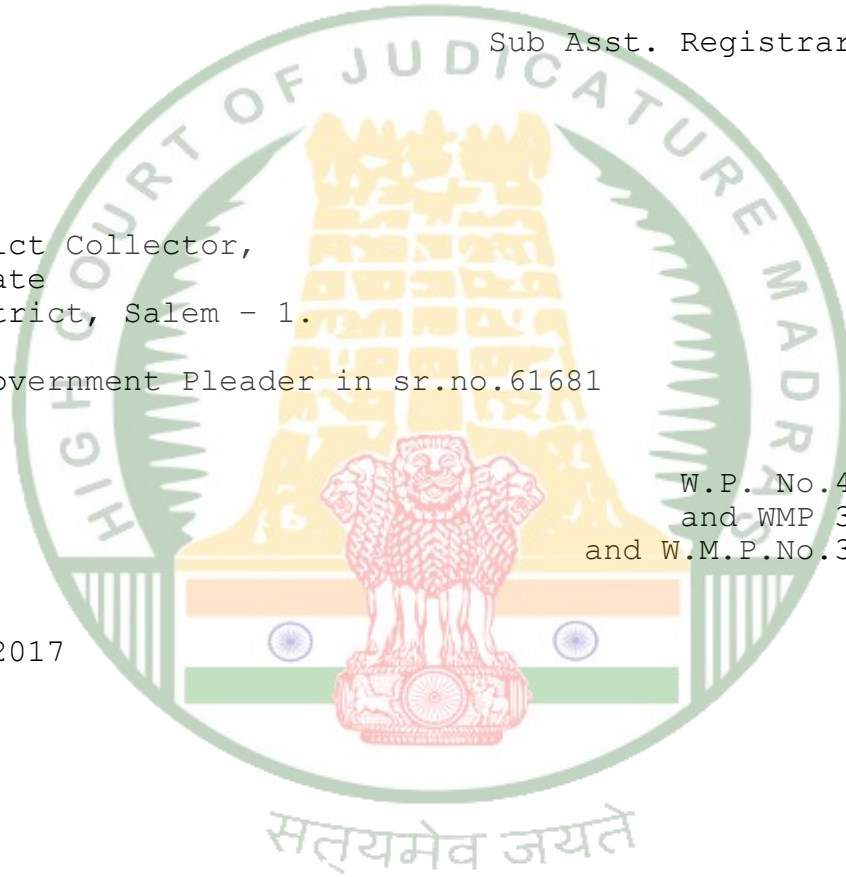
TO:

The District Collector,
Collectorate
Salem District, Salem - 1.

+1cc to Government Pleader in sr.no.61681

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RSI (CO)
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