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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

AND

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.A. (MD) No.1294 of 2017

and

C.M.P (MD) No.8986 of 2017

R.Pushpa

: Appellant/Petitioner

Vs.

1. The Director of Medical Education,
162, E.V.R.Periyar Salai,
Kilpauk,
Chennai - 600 010.
2. The Dean,
K.A.P.Viswanatham Govt. Medical College,
Collector Office Road,
Periyamilaguparai,
Trichirapalli.
3. The Junior Administrative Officer,
Administrative Block,
K.A.P.Viswanatham Govt. Medical College,
Collector Office Road,
Periyamilaguparai,
Trichirapalli.

: Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, praying to set aside the order dated 04.05.2017 passed in W.P(MD)No.8776 of 2017.

Prayer in WP(MD). 8776/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to impugned award order passed by the 2nd respondent in Na.Ka.No. 339/Thi.Va./2015 dated 26.04.2017 and quash the same as illegal.

For Appellant : Mr.P.R.Prithiviraj

For Respondents : Mr.K.Guru,
Additional Government Pleader

**JUDGMENT**

[Judgment of the Court was made by **M. VENUGOPAL., J.**]

Heard both sides.

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2. By consent, the main Writ Appeal itself is taken up for final disposal.

3. The Appellant/Writ Petitioner has focussed the instant Writ Appeal as against the impugned order dated 04.05.2017 in W.P(MD)No.8776 of 2017 passed by the Learned single Judge in dismissing the Writ Petition.

4. Earlier, the Learned single Judge while passing the impugned order in W.P(MD)No.8776 of 2017 on 04.05.2017 at Paragraph Nos.3 to 5 had observed the following and ultimately dismissed the Writ Petition as devoid of merits.

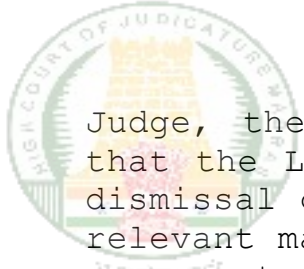
"3.The fact remains that the petitioner owns a house which she has suppressed to the Authorities. There are several Government servants who do not own a house and are staying in rented premises and are commuting to the place of work. The argument of the learned counsel for the petitioner that the petitioner's house is far away and the petitioner has to come to the work place by two buses, cannot be a reason for suppression.

4. The learned counsel for the petitioner submitted that the petitioner was not put on notice before the impugned order was passed.

5. In the considered opinion of this Court, the order has been passed after perusing the admitted records viz., the monthly salary statement of the petitioner, which shows the deduction for the housing loan. In the teeth of such clinching materials that is available with the respondents, the petitioner cannot be heard to complain that she must be given a fair opportunity by the Authorities before passing the impugned order. At the first instance, this petitioner should not have resorted to suppression for which no indulgence can be shown."

Furthermore, the Learned single Judge had granted time till 30.06.2017 to the Appellant/Petitioner to hand over the staff quarters to the Authorities concerned.

5. Assailing the correctness, validity and legality of the impugned order dated 04.05.2017 passed by the Learned single



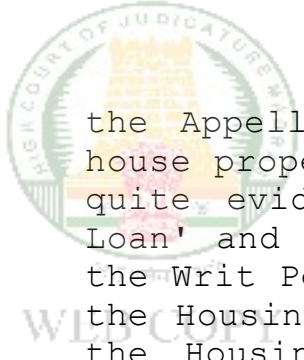
Judge, the Learned Counsel for the Appellant/Petitioner contends that the Learned single Judge while passing the impugned order of dismissal of the Writ Petition had failed to take into account the relevant materials filed in the typed set of papers. Also, it is represented on behalf of the Appellant that the impugned order of the Learned single Judge in the Writ Petition suffers from the negation of principles of natural justice and in short, the second Respondent/Dean, K.A.P.Viswanatham Govt. Medical College, Trichirapalli, had not issued any show-cause notice to the Appellant/Petitioner before issuing the cancellation of allotment order.

6. The prime argument advanced on behalf of the Appellant is that the Learned single Judge had failed to appreciate that the nature of work of the Appellant/Writ Petitioner to render her excess service to the hospital and the main object/purpose for allotting the quarters is that the staff will have to stay in the quarters and perform additional duties if any urgent work is required to be carried out and in fact, Condition No.5 of the proceedings dated 11.09.2015, namely, the allotment order issued by the second Respondent points out the same. Lastly, it is the submission of the Learned Counsel for the Appellant that the house was purchased in the name of the Appellant during the year 2002, which is situated very far from the place where the Appellant is working and also that, the Appellant does not have any house. That apart, the Appellant had not suppressed any information at the time of allotment of quarters and that is also not the case of the Respondents in this regard.

7. Per contra, it is the submission of the Learned Additional Government Pleader appearing for the Respondent Nos.1 to 3 contending that the impugned order of the Learned single Judge in W.P(MD)No.8776 of 2017 dated 04.05.2017, is perfectly valid one in the eye of law because of the simple reason that the Appellant in fact owns a house and that owning of the house by the Appellant was not disclosed to the Authorities concerned. Furthermore, after coming to know the fact that the Appellant had availed the Housing Loan, the Authorities had passed an order of cancellation of allotment order dated 11.09.2015 and in fact, the Learned single Judge had rightly dismissed the W.P(MD)No.8776 of 2017 filed by the Appellant/Writ Petitioner.

8. This Court heard the Learned Counsel for the Appellant/Petitioner and the Learned Additional Government Pleader appearing for the Respondent Nos.1 to 3 and noticed the contentions.

9. It is not in dispute that the Appellant owns a house, which <https://hcs.econwta.gov.in/hcservices/> informed to the Authorities concerned by the Appellant at the time of allotment of staff quarters to the Appellant. On verification of the records, it came to light that



the Appellant had availed the Housing Loan and had purchased a house property. From the Salary Statement of the Appellant, it is quite evident that there was deduction in respect of 'Housing Loan' and as such, the Learned single Judge had rightly dismissed the Writ Petition based on the fact that the Appellant had availed the Housing Loan and she had not informed the factum of availing the Housing Loan to the Authorities concerned at the time of seeking allotment of staff quarters in the year 2015. Looking at from any angle, the cancellation of allotment order dated 11.09.2015 by the second Respondent as well as the impugned order of dismissal of the Writ Petition(MD)No.8776 of 2017 dated 04.05.2017 passed by the Learned single Judge, are free from any flaw. Resultantly, the Writ Appeal fails.

10. In fine, the Writ Appeal is dismissed leaving the parties to bear their own costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

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Periyamilaguparai,
Trichirapalli.

+1cc to Spl.Government Pleader Sr.No.81656

+1cc to Mr.P.R.Prithiviraj, Advocate Sr.No.81899

PM

VB/KP/SAR4/12/10/2017/4P/6C