



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2017

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C O R A M

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. (MD) No.22374 of 2017
and
W.M.P. (MD) No.18680 of 2017

K.Petchiammal

... Petitioner

Vs.

Assistant Director of Rural Development (Audit),
Virudhunagar,
Collectorate Campus,
Virudhunagar District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorari, to call for the records pertaining to the impugned order issued by the respondent through his proceedings in Na.Ka.No.650/2010/A5 dated 16.08.2017.

For Petitioner : Mr.L.Shaji Chellan

For Respondent : Mr.J.Gunaseelan Muthiah
Government Advocate

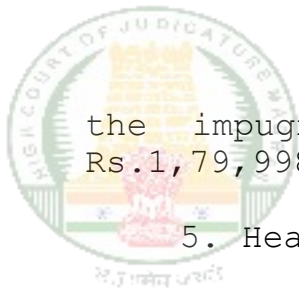
O R D E R

This writ petition has been filed questioning the impugned order of the respondent dated 16.08.2017, vide which, explanations were called for, from the petitioner, for the allegations levelled against him.

2. By consent, the writ petition is taken up for final disposal at the admission stage itself.

3. Mr.J.Gunaseelan Muthiah, learned Government Advocate, takes notice for the respondent.

4. The petitioner, who is the Ex-President of Kothankulam Panchayath, is before this Court, contending that based on the complaint given by some rival parties, without any base, special Audit was conducted, followed by which, the respondent has issued



the impugned notice, stating that he has caused a loss of Rs.1,79,998/- to the Panchayat.

5. Heard both sides and perused the documents placed on record.

6. A perusal of the typed set of papers would show that some allegations, with regard to misappropriation of funds / loss caused to the Government, were levelled against the petitioner and the present impugned notice came to be passed, seeking his explanation for the same.

7. It is well settled that in the event of violation of fundamental rights or infringement of any legal right either under the Statute or under any other laws and violation of principles of natural justice, an individual may approach the Court, seeking interference. In the absence of any such ingredients and legal right, it is not appropriate for the petitioner to seek remedy by merely challenging the show cause notice. The Hon'ble Supreme Court in the case of Union of India and another vs. Kunisetty Satyanarayana, reported in (2007) 1 SCT 452, has been pleased to lay down as under:

"It is well settled by a series of decision of this Court that ordinarily no writ lies against a charge sheet or show cause notice vide Executive Engineer, Bihar State Housing Board vs. Ramdish Kumar Singh and others JT 1995 (8) SC 331, Special Director and another vs. Mohd. Ghulam Ghose and another in 2004 (1) SCT671 (SC), Ulagappa and others vs. Divisional Commissioner, Mysore and others (2001) 10 SCC 639, State of U.P. vs. Brahm Dutt Sharma and another in AIR 1987 SC 943 etc."

8. The Hon'ble Supreme Court in the very same judgment (cited supra) held that in some very rare and exceptional cases, the High Court can set aside the show cause notice, if it is found to be without jurisdiction, or for some other reason, if it is wholly illegal, otherwise the High Court should not interfere.

9. It is also seen from the affidavit filed in support of the petition that the petitioner has submitted his detailed reply as early as on 06.10.2017, for the impugned Show Cause Notice dated 16.08.2017, which was duly received by the respondent. Having submitted his objections to the impugned notice, on one hand, the petitioner has filed the present petition, on the other hand, to quash the same notice.

10. Under such circumstances, this Court, while declining to interfere with the impugned notice, directs the respondent to consider the objections of the petitioner dated 06.10.2017 and pass appropriate orders, on merits and in accordance with law, after affording due opportunity of hearing to the petitioner as well as all the other interested parties, if any, within a period of twelve weeks from the date of receipt of a copy of this order. Till then,



no coercive steps should be taken against the petitioner.

11. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Assistant Director of Rural Development (Audit),
Virudhunagar,
Collectorate Campus,
Virudhunagar District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 91936
+ 1 CC TO Mr.L.SHAJI CHELLAN, ADVOCATE IN SR No. 91430

GK

TE/SKN-RSK/SAR-3 : 19/12/2017 : 3P/4C

W.P. (MD) No. 22374 of 2017 and
W.M.P. (MD) No. 18680 of 2017
07.12.2017