

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED:19.12.2018

CORAM:  
THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.4462 of 2011  
MP.Nos.1 and 2 of 2011

P.S.Santhanam

..Petitioner

Vs

The General Manager,  
Vellore Tiruvannamalai District  
Cooperative Milk Producers' Union Limited  
Vellore

..Respondent

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records of the Respondent in Na.Ka.No.15398/Tho.U/2003-1, dated 04.10.2010 and consequential order of recovery issued in Rc.No.15398/tho.U/2003, dated 23.11.2010 and to quash the same.

For Petitioner : Mr.N.Amarnath

For Respondent : Mr.L.P.Shanmuga Sundaram,  
Spl.GP

ORDER

The prayer in this Writ Petition is to quash order dated 04.10.2010 of the 1st Respondent and the consequential order of recovery, dated 23.11.2010.

2. This court heard the learned counsel on either side and also perused the materials placed on record.

3. According to the learned counsel for the Petitioner, the impugned order of recovery, dated 23.11.2010 had been issued, without considering the explanation of the Petitioner, dated 14.10.2010. Though the said explanation was received by the Respondent on 18.10.2010, as per the endorsement made in the Register, it was observed by the Respondent in the impugned order that there was no explanation received from the Petitioner, which is contrary to the fact and there was no sufficient opportunity granted to the Petitioner, before passing the impugned orders and hence, the impugned orders are liable to be quashed. In order to show his bona fide, the Petitioner is also willing to deposit 25% of the amount demanded so as to enable the Respondent to consider his explanation afresh and

pass orders, in accordance with law, within a time frame.

4. In the counter affidavit filed by the Respondent, there is no specific denial by the Respondent in respect of receipt of the explanation of the Petitioner.

5. Considering the facts and circumstances of the case and the facts that the explanation of the Petitioner dated 14.10.2010 was not considered and sufficient opportunity was not granted to the Petitioner, before passing the impugned order, which would amount to violation of principles of natural justice, the impugned orders are to be quashed. However, while quashing the impugned orders, on the Petitioner paying 25% of the amount demanded without prejudice to the rights of the Petitioner and furnishing a copy of the said explanation, dated 14.10.2010, to the Respondent, within a period of four weeks from the date of receipt of a copy of this order, the Respondent is directed to consider the explanation of the Petitioner, dated 14.10.2010 and pass appropriate orders afresh, after affording opportunity to the Petitioner, on merits and in accordance with law, within a period of four weeks thereafter.

6. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected MPs are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Srcm

To

The General Manager,  
Vellore Tiruvannamalai District  
Cooperative Milk Producers' Union Limited  
Vellore.

+1cc to Mr.R.N.Amarnath, Advocate, S.R.No.89099

RGN (CO)

RRS (18/06/2019)

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