

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2018

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.5090 of 2011

K.Joyce Kumar
The Secretary,
Ulaikkum Makkal Amaippu,
Valparai,
Coimbatore District 642127

... Petitioner

Vs.

1. The District Collector,
Coimbatore District,
Coimbatore.
2. Tamilnadu Civil supplies Corporation Ltd.,
Valparai, Coimbatore District.
3. The Project Officer (T&C),
Tamilnadu Corporation for Development
of Women Ltd.,
Project Implementation Unit,
1067-A, Beena Illam, 1st Floor, Trichy road,
Coimbatore - 18.
4. The District Revenue Officer,
Coimbatore,
Coimbatore District.
5. The Secretary to Government,
Tamilnadu Food and Consumer Dept.,
Chennai.

... Respondents

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for entire records pursuant to the order of the 4th respondent in Na.Ka.2919/2007 KEE 9, dated 19.12.2010 and quash the same, consequently, direct the first respondent to restore the earlier order of allotment vide orders in Na.Ka.No.6659/2001/Ke9, dated 8.9.2001, Na.Ka.No.6659/2001/Ke9, dated 31.10.2001 and Na.Ka.No.6659/2001/Ke9, dated 4.3.2002 and to pay compensation of Rs.15,00,000/-.

For Petitioner : Mr.Saravanan
For Respondents 1,3to5 : Mr.M.Karthikeyan, A.G.P.
For Respondent No.2 : Mr.C.Selvaraj

O R D E R

The petitioner is Secretary of Ulaikkum Makkal Amaippu, N.G.O. joined the project of "Magalir Suyu Udhavi Kulukkal" under the third respondent on 29.6.2001. The first respondent vide order in Na.Ka.6659/ 2001/Ke9, dated 8.9.2001 initially sanctioned two ration shops in Valparai region and thereafter, two more shops on 4.3.2002. There are ten shops run by the petitioner organisation. The shops were look after by two woman members for each shop. During absence of the petitioner, various malpractices were committed, resulting in, the impugned order has been passed by the fourth respondent. According to the petitioner, petitioner was not given an opportunity of hearing before passing the impugned order. Therefore, he filed the present writ petition before this Court.

2. Learned counsel for the petitioner would submit that pursuant to the order passed by this Court, the first respondent has not considered the explanation submitted by the writ petitioner and passed cryptic and non speaking order. Therefore, the impugned order is liable to be quashed.

3. The learned Additional Government Pleader appearing for the respondents 1 and 3 to 5, would submit that opportunity was granted to the writ petitioner and the explanation submitted by the writ petitioner also considered. After considering the said explanation, the impugned order has been passed. Therefore, the order passed by the fourth respondent is valid in law and the writ petition is liable to be dismissed.

4. The learned counsel appearing for the second respondent reiterated the stand taken by the learned Additional Government Pleader appearing for the respondents 1 and 3 to 5.

5. Heard the learned counsel for the petitioner, learned counsel for the respondents 1 and 3 to 5 and the learned counsel appearing for the second respondent and perused the materials available on record.

6. This Court by order, dated 7.8.2009 in W.P.No.11843 of 2004, remitted back to the District Collector for enquiry and pass orders afresh after providing an opportunity to the petitioner. Pursuant to the order passed by this court, the 4th respondent has passed an order rejecting the claim of the

petitioner on allotment of shops. Assailing the aforesaid order, the petitioner has filed the present writ petition before this Court. The order passed by this Court on 7.8.2009 in W.P.No.11843 of 2004, reads as under:

"4. In this case, the petitioner has accepted certain irregularities but has submitted some reason. The same has to be considered. In such a situation, the first respondent/District Collector is called upon to relook into the claim. The petitioner will be put on notice with regard to the mal-practices alleged if any as stated in the counter affidavit. The petitioner will be given an opportunity to put forward the defence and establish their case that they have not violated any of the condition of the allotment. The Collector is directed to take appropriate final decision on merits based on the reply or submissions that may be tendered by the petitioner. such exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. This writ petition stands disposed of accordingly. No costs."

7. In the aforesaid order, this court directed the District Collector to take appropriate final decision on merits. On perusal of the impugned order shows that the fourth respondent passed the said order without giving any reason for rejecting the explanation submitted by the writ petitioner. The impugned order passed by the fourth respondent is vitiated on the ground that there is no reason in the impugned order for rejecting the claim of the petitioner. The said order is cryptic and non speaking order. Therefore, this Court has no hesitation to quash the impugned order, dated 19.12.2010 and remitted the same to the District Collector to consider afresh and pass detailed order on merits and in accordance with law after providing opportunity to the writ petitioner.

8. Accordingly, the impugned order is quashed. The writ petition is allowed. The petitioner is directed to submit an explanation to the first respondent, if necessary, the petitioner can appear before the first respondent and the first respondent shall give an opportunity of personal hearing to the petitioner and pass a detailed order, within a period of eight weeks from the date of receipt of a copy of this order. The petitioner shall cooperate with the enquiry before the first respondent. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Coimbatore District, Coimbatore.
2. Tamilnadu Civil supplies Corporation Ltd.,
Valparai, Coimbatore District-642 127.
3. The Project Officer (T&C),
Tamilnadu Corporation for Development of Women Ltd.,
Project Implementation Unit,1067-A, Beena Illam, 1st
Floor, Trichy road,
Coimbatore - 18.
4. The District Revenue Officer,
Coimbatore, Coimbatore District.
5. The Secretary to Government,
Tamilnadu Food and Consumer Dept., Chennai.

+1cc to Thiru S.Saravanan, Advocate Sr.82055
+1cc to Thiru C.Selvaraj, Advocate Sr.82301
+1cc to the Government Pleader Sr.82240

W.P.No.5090 of 2011

mr[co]
srg 03/01/2019

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