IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.10.2018

CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.26689 of 2015
M.P.No.1 & 2 of 2015

M/s.P.R.Agencies,
Represented by its Managing Partner,
Shri.S.Ravichandran,
No.7, Morrison 1st street,
Alandur,Chennai 600016. .. Petitioner

-Vs-

The Traffic Manager,
Chennai Port Trust,
Administrative Office,
Rajaji Salai, Chennai - 600 001. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned show cause notice dated 08.10.2014 issued by the respondent in F.No.GL/0189/2014/TC and quash the same.

For Petitioner : Mr.Hari Radhakrishnan

For Respondents : Mr.K.Lavan

O R D E R

The show cause notice dated 08.10.2014 issued by the respondent is under challenge in this writ petition.

2. The impugned show cause notice states that the General Manager, M/s.Banglore Metro Rail Corporation Ltd., vide letter dated 08.04.2014 has requested to confirm the payment received by the port with respect to the 'B' form of IA dated 12.03.2014 of M/s.P.R.Agencies. On verification of the copy of Form B produced by your agency of M/s.BNRC Ltd., it is seen that the same has been forged to show a higher amount than actually assessed/ claimed by the port. The above offence committed by your agency with BMRC Ltd., amounts to forgery and is against the Trust, Rules and Regulations. Setting out the said allegations, the show cause notice has been issued.

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3. The learned counsel appearing on behalf of the petitioner states that the petitioner is innocent of the allegations set out in the charge memo. He is ready and willing to establish his innocence in respect of the allegations, if respondents conduct free and fair enquiry and uninfluenced by any report placed before the respondents.

4. This Court is of an opinion that relying on the documents and the reports are not perse illegal. However, while issuing the show cause notice and after receiving explanations / objections from the persons concerned the authorities must apply their mind independently and take a decision on merits and in accordance with law in an unbiased manner. It is needles to state that the decision making authorities must be unbiased, fair and reasonable in respect of considering the materials available on record. This being the basic principles to be followed, the apprehension raised by the writ petitioner in this regard is to be taken note of by the respondents while considering the objections / explanations submitted by the writ petitioner. However, this Court is not inclined to quash the show cause notice as the writ petitioner can avail the opportunities now provided by the respondents to defend his case in accordance with law.

5. No writ proceedings can be entertained against the show cause notice in a routine manner. The judicial review against the show cause notice is certainly limited. A show cause notice can be challenged, if the same has been issued by an incompetent authority having no jurisdiction or competency or if an allegation of malafides are raised or if the same is in violation of the statutory rules in force. Even in case of raising an allegation of malafides, the authority against whom such an allegations are raised is to be impleaded as party respondent in his personal capacity in the writ proceedings. In the absence of any one of these legal grounds, no writ proceedings can be entertained against the show cause notice.

6. Intermittent intervention in statutory proceedings are not desirable. Such intermittent interventions will cause prejudice to the completion of the statutory proceedings initiated by the competent authorities by invoking the provisions of the Act. Unless there is a legal ground to interfere, the High Courts must allow the authorities competent

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to proceed with the enquiry and conclude the same by providing opportunity to all the persons concerned. This being the scope of the proceedings, the High Courts must be cautious while entertaining the writ against the show cause notice. Stalling the statutory proceedings on the show cause notice will certainly affect the effective and efficient implementation of the Statutes concern. Thus, in the event of any established legal grounds, no writ proceedings shall be admitted against the show cause notice. The Hon'ble Supreme Court also time and again emphasized that writ against the show cause notice cannot be entertained in a casual manner.

7. The learned counsel for the writ petitioner states that the writ petitioner had already submitted his explanations / objections on 16.10.2013 and 27.10.2014. This being the factum of the case, the respondents are directed to consider the explanations / objections submitted by the writ petitioner along with all other materials available on record and if necessary a personal hearing to the writ petitioner and pass orders on merits and in accordance with law.

8. With these observations the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/--
Assistant Registrar(CS ix)

//True Copy//

Sub Assistant Registrar

pns/sk
To

The Traffic Manager,
Chennai Port Trust,
Administrative Office,
Rajaji Salai, Chennai - 600 001.

+1cc to Mr.Hari Radhakrishnan , Advocate SR.No. 72243
+1cc to Mr. K.Lavan, Advocate SR.No. 72052

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ASK(14/11/2018)

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