

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.A.No.1694 of 2018
and
CMP.No.13534 of 2018

Tamil Nadu Food Safety and Drug Administration
Department rep. by the Commissioner of Food
Safety, No.359, Anna Salai,
Chennai-6.

... Appellant/Respondent/Respondent

Vs

1. Mariappan ... Respondent/Petitioner/Petitioner

2. The Designated Officer,
Tamil Nadu Food Safety and Drug Administration
Department, Chennai District,
No.33, West Jones Road,
Saidapet, Chennai-15.

3. Greater Chennai Corporation
rep. by its Commissioner,
Rippon Building, Chennai-3.

... Respondents/ Respondents/ Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent
against the order dated 20.02.2018 made in WMP.No.27464 of 2017
in W.P.No.19831 of 2017 by a learned Single Judge.

WMP.No.27464/17 in WP.No. 19831/17 dated 20/02/2018

Petition praying that in the circumstances stated therein and in
the affidavit filed therewith the High Court will be pleased to
Vacate the Interim Stay ordered on 02.08.2017 in WP No.19831 of
2017 (in WMP,27464/2017) in WP.No. 19831.

WP.NO. 19831/2017:

Writ Petition under Article 226 of the Constitution of India praying that in the circumstances stated therein and in the calling for the records from the 1st respondent relating to the proceedings of the 1st Respondent dt.14.07.2017 bearing reference No.Na. Ka. No.2805/ 2017/ Erul/ upathasa and the consequential proceedings of the 2nd Respondent dt.20.07.2017 bearing reference No.Na.Ka. No.5055/ 2017 and quash the same as illegal, arbitrary, without jurisdiction and consequently direct the Respondents 1 and 2 to continue to the Petitioner in the 1st Respondent Department as it was done in the case of other Food Safety Officer appointed along with the petitioner whose name was gazette on 20.04.2012, pay all monetary, service and other service benefits which the petitioner would have been entitled to had the impugned proceedings were not passed by the 1st and 2nd respondent (in WP.No.19831/2017).

For Appellants :: Mr.P.S.Siva Shanmugasundaram,
Spl. Govt. Pleader

For Respondents:: Mr.K.Srinivasa Murthy Cav for R1
M/s.Karthika Ashok for R3

JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the order dated 20.02.2018 made in WMP.No.27464 of 2017 in W.P.No.19831 of 2017 by a learned Single Judge.

2. The said Miscellaneous Petition has been filed by the respondent in W.P.No.19831/2017 to vacate the interim order of stay granted on 02.08.2017 in that writ petition. The learned Single Judge by his order dated 20.02.2018, has dismissed the said petition. Aggrieved over the same, the present Writ Appeal has been filed.

3. Heard the submissions made on either side. We have also perused the materials available on record carefully.

4. At the outset, it appears that though the 1st respondent herein was originally working in the Chennai Municipal Corporation, on implementation of the Food Safety and Standards Act, he was asked to work as a Food and Safety Officer under the aforesaid Act. It further appears that in the meanwhile, the Government having created a new Department for implementation of the said act, decided to appoint the Food Safety Officials by deployment from the Senior Sanitary

Inspector/Food Inspector working in the Municipal Corporation as well as the Food Inspector under the Health Department. The 1st respondent, being the senior, he has been so deployed along with others. The same was opposed by the appellant herein, but the 1st respondent has obtained a stay from a learned Single Judge of this Court by filing W.P.No.19831/2017 in respect of the said deployment. Therefore, the appellant, namely, the Tamil Nadu Food Safety and Drug Administration Department has filed a Vacate Stay Petition before the learned Single Judge. The same was dismissed by order dated 20.02.2018 observing as under:

''...such deployment appears to be permanent as the department having created, wants to fill up the post with Senior Food Inspector working under the repealed Food Adulteration Act. In such premises, prima facie it cannot be accepted that he having his lien with Chennai Municipal Corporation and not an employee of the newly created Department i.e. Respondent No.1 to the Writ Petition, his original employer i.e. Respondent No.1 to the Writ Petition. His original employer i.e. Greater Chennai Municipal Corporation/Respondent No.3 also support such stand with the submission that no post exist to accommodate the writ petitioner. In such circumstances, the prayer made to vacate the order of staying the operation of the impugned order, in the writ miscellaneous petition filed by the respondent no.1, appears to be devoid of merit and accordingly dismissed.''

Aggrieved over the same, the present Writ Appeal has been preferred.

5. A perusal of the above interim order would reveal that finality being reached in this matter. Therefore, we are of the view that by providing an opportunity, the writ petition may be finally heard and disposed of by the learned Single Judge, within a period of three months from the date of receipt of a copy of this Order. Till such time, the parties are directed to maintain status quo as on today.

6. With the above observation and direction, the Writ Appeal is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-V)

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Sub Assistant Registrar

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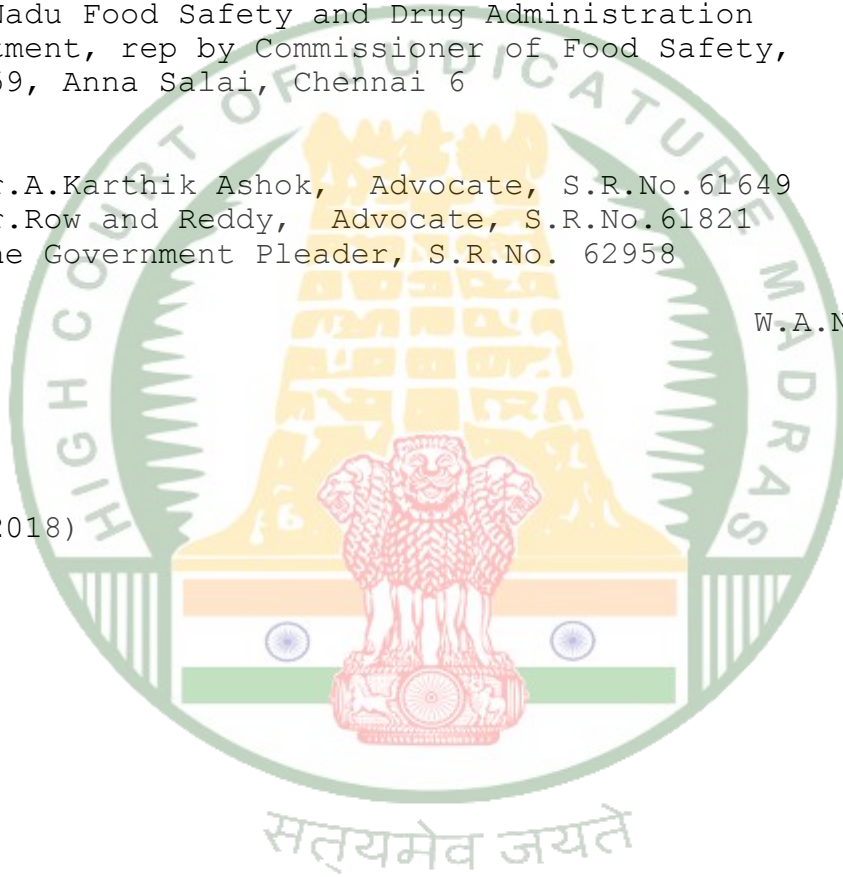
To

1. The Designated Officer,
Tamil Nadu Food Safety and Drug Administration
Department, Chennai District,
No.33, West Jones Road,
Saidapet, Chennai-15.
2. Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai-3.
3. Tamil Nadu Food Safety and Drug Administration
Department, rep by Commissioner of Food Safety,
No. 359, Anna Salai, Chennai 6

+lcc to Mr.A.Karthik Ashok, Advocate, S.R.No.61649
+lcc to Mr.Row and Reddy, Advocate, S.R.No.61821
+lcc to the Government Pleader, S.R.No. 62958

W.A.No.1694/2018

AD(CO)
GN(26/09/2018)



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