

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2018

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.868 of 2015 and
M.P.Nos. 1 & 2 of 2015

S.Chandrasekar

... Petitioner

Vs

1.The Director,
Human Resources,
Corporate Office,
Neyveli Lignite Corporation Ltd.
Block-I, Neyveli-1
Cuddalore District.

2.The Deputy General Manager,
Human Resources,
Mine-IA,
Neyveli Lignite Corporation Ltd.
Neyveli-1, Cuddalore District.

3.The Chief Manager,
Mine Auto Division
Mine-IA,
Neyveli Lignite Corporation Ltd.
Neyveli-1, Cuddalore District.

4.The Estate officer,
Eviction Authority,
Assistant Township Administrator,
Township Administrative Office,
Neyveli Lignite Corporation Ltd.
Neyveli-1, Cuddalore District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of certiorari calling for the entire records from the 4th respondent pertaining to the impugned Show Cause Notice bearing No.TA/ESI/E1/6834/2014, dt.15.12.2014, issued under subsection (1) and clause (b) (ii) of Section 2 and Section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 for eviction of the petitioner from the NLC quarters 070/C/TYPE-II/BL-07, and quash the same as non-maintainable, illegal.

For Petitioner : Mr.R.Prabhakaran

For Respondents : Mr.N.Nithianandam

O R D E R

The Show Cause Notice dated 15.12.2014 issued by the respondents under subsection (1) and clause (b) (ii) of Section 2 and Section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 for eviction of the petitioner from the NLC quarters 070/C/TYPE-II/BL-07 is under challenge in this writ petition.

2.The writ petitioner was employed as Deputy Chief Engineer and on account of certain serious allegations, disciplinary proceedings were initiated against the writ petitioner and after conducting enquiry, he was removed from service on 17.09.2013. On account of the finality of removal in respect of the writ petitioner, the respondents issued show cause notice in proceedings dated 15.12.2014, directing the writ petitioner to vacate the official quarters. However, the writ petitioner instead of vacating the premises, filed the present writ petition and continuing in the official quarters by virtue of the interim order granted by this Court.

3.The learned counsel appearing on behalf of the respondents states that, though the vacate stay applications are moved immediately before this Court in the present writ petition, the same is not listed for hearing and by taking undue advantage of the situation, the writ petitioner is continuing in the official quarters for the past three and half years without any authority. A removed official of the respondent Corporation is not entitled to continue in the official quarters as per the rules in force. Thus, the writ petitioner has no right to continue and he has to vacate immediately.

4.The Hon'ble Supreme Court of India, time and again emphasized that an official, if relieved from duty on account of the punishment of removal, transfer or retirement, is bound to vacate the official quarters within a time limit prescribed under the rules. In the present case, the writ petitioner had been removed from service in the year 2013 itself. Thus, he may be permitted to continue in the official quarters for one month for making alternate arrangements and thereafter, the petitioner is bound to vacate the official quarters. Contrarily, by filing the writ petition and by virtue of an interim order, the writ petitioner is continuing in the official quarters for the past three and half years.

5.No writ proceedings can be entertained against the show cause notice in a routine manner. 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 if an allegation of mala fides are raised or if the same is in violation of the statutory rules in force. Even, in case of raising an allegation of mala fides, the authorities against whom such an allegation is raised, to be impleaded as party respondent in the writ proceedings in his personal capacity. In the absence of any one of these legal grounds, no writ proceedings can be entertained against the show cause notice. Intermittent Intervention in statutory proceedings are not preferable and the authorities competent, on initiation of proceedings under the statute, must be allowed to complete the same by following the procedures as contemplated under law. Institutional respects are also to be maintained by the Constitutional Courts. Frequent interventions in the statutory proceedings will certainly cause prejudice to the parties both the petitioner as well as to the Department.

6.Thus, such interventions are to be avoided and such writ petitions filed for the purpose of stalling the enquiry proceedings are to be dealt with cautiously. The Constitutional Courts also should be cautious, while entertaining such writ petitions, wherein the persons are intending to stall the proceedings by keeping the writ petitions pending for years together. Such an attitude of the litigants are also to be deprecated. Equally, the Department, on receipt of Rule Nisi notice from the Hon'ble High Court, must respond to the High Court immediately. The interim orders are granted by the Courts', considering the urgency and to avoid any damage to the litigants. Thus, on receipt of any such interim order, if the Department is of an opinion that certain facts and materials are not placed before the Courts, the authorities competent are bound to file the Vacate Stay Petitions immediately, so as to place all the materials and facts before the Court. Contrarily, the Department cannot be insensitive towards such matters and casually deal with the matter by not even filing counter affidavit in all such writ petitions. Such an attitude of the officials are also to be construed as negligence and dereliction of duty. The officials, on receipt of the Rule Nisi Notice from the Honb'le High Court, must act without any further delay in order to protect the interests of the Department and the public revenue. Thus, if the negligence, dereliction of duty is found against the officials, the competent authorities are bound to initiate suitable disciplinary actions against all such officials.

7.In view of the fact that the writ petitioner has no right to continue in official quarters as he is not reinstated into

service and he continues to be a removed employee, the present writ petition is devoid of merits and stands dismissed. The respondents are empowered to take actions pursuant to the show cause notice without any further delay. However, there shall be no orders as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kak/ssr

To

1.The Director,
Human Resources,
Corporate Office,
Neyveli Lignite Corporation Ltd.
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Cuddalore District.

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Eviction Authority,
Assistant Township Administrator,
Township Administrative Office,
Neyveli Lignite Corporation Ltd.
Neyveli-1, Cuddalore District.

+1cc to Mr.R.Prabhakaran, Advocate Sr.No.74034
+1cc to Mr.Nithianandam, Advocate Sr.No.72801

W.P.No.868 of 2015

CSL/12.11.2018