

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2018

CORAM:

THE HON'BLE MR. JUSTICE R.MAHADEVAN

W.P.No.6464 of 2010

S.Prasath

.. Petitioner

Vs

1.The Presiding Officer,
Principal Sessions Court,
Villupuram,
Villupuram District.

2.The District Revenue Officer,
Villupuram,
Villupuram District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records relating to the impugned order passed by the second respondents in his proceedings No.Na.Ka.K4/22465/2008, dated 31.07.2009, confirmed by the first respondent in C.A.No.26/2009, dated 18.11.2009 and quash the same.

For petitioner : Mr.C.Prakasam
For R2 : Mr.B.Anand, GA

O R D E R

By this writ petition, the petitioner seeks to quash the order passed by the first respondent / the Presiding Officer, Principal Sessions Court, Vilupuram, in C.A.No.26 of 2009, dated 18.11.2009, confirming the proceedings dated 31.07.2009 of the second respondent / the District Revenue Officer, Vilupuram District, recommending the Joint Registrar of Cooperative Societies, Vilupuram, to initiate disciplinary action against the petitioner.

2. The facts in nutshell are as follows:-

While the petitioner was working as Salesman at Shop No.1, Kottakuppam Village, run by Irumbai Primary Agricultural

Cooperative Credit Society, on 28.05.2008, Kottakuppam Police was informed about the smuggling of PDS rice in Mini Lorry bearing Registration No.TN-32-C-9987 from the Fair Price Shop No.1, Kottakuppam Village, Vanur Taluk, Villupuram District, and upon complaint made by the public, the petitioner was taken into police custody and the vehicle in question was also seized. Subsequently, after receiving a report from the Inspector of Police (Foodcell), Cuddalore, in Crime No.40/2008, dated 28.05.2008, the second respondent, in his proceedings dated 31.07.2009, had forfeited the rice and thereby imposed a fine to the tune of Rs.25,000/- against the owner of the Mini Lorry as penalty, besides requesting the Joint Registrar of Cooperative Societies, Villupuram, to take necessary action against the salesman/petitioner herein for the shortage of PDS rice and the bogus billing as reported by the Special Tahsildar (Flying Squad), Villupuram. Aggrieved by the said impugned proceedings of the second respondent, when appeal was preferred, the Presiding Officer, Principal Sessions Court, Villupuram / first respondent herein, had confirmed the above said proceedings of the first respondent, vide C.A.No.26 of 2009, dated 18.11.2009. As against the orders of the respondents 1 and 2, the petitioner has filed the present writ petition with a prayer cited supra.

3. Learned counsel for the petitioner submitted that the second respondent, in this case, has no power to recommend the Joint Registrar of Cooperative Societies, to initiate disciplinary action against the petitioner as the order passed under Section 6-A of the Essential Commodities Act, 1955, does not permit him to proceed further. Learned counsel for the petitioner further submitted that the second respondent had failed to consider the detailed explanation given by the petitioner and hence, the order violating the principles of natural justice does not survive.

4. On the other hand, a counter affidavit has been filed by the second respondent, wherein, it is stated that it is only upon the report of the Special Tahsildar (Flying Squad), Villupuram, an enquiry under Section 6(b) of the Essential Commodities Act, 1955, came to be conducted and the parties concerned were called for to submit their respective objection and finally, after thorough examination, the case was decided against the petitioner. It is further stated in the counter affidavit that the second respondent, vide his proceedings dated 31.07.2009, which is impugned herein, had forfeited the rice and imposed a fine amount of Rs.25,000/- against the owner of the Mini Lorry as penalty. The owner of the Mini Lorry, in his deposition, had admitted the fact that only the petitioner had requested the van driver to transport the PDS rice from the Fair Price shop No.1, Kottakuppam Village, to Pondicherry Rice Mill. Therefore, by taking note of all these facts, the second

respondent recommended the Joint Registrar of Cooperative Societies to initiate disciplinary action against the petitioner. It is further stated that the appeal preferred by the petitioner against the proceedings of the second respondent was also ultimately dismissed by the first respondent and hence, the prayer of the petitioner seeking to quash the orders passed by the respondents 1 and 2 is liable to be rejected.

5. I have considered the facts and perused the materials placed before this Court.

6. It is not in dispute that against the petitioner, the Inspector of Police (Foodcell), Cuddalore, had registered a case in Crime No.406/2008 and subsequently, he was arrested. Upon instruction from the District Collector, Viluppuram, the Special Tahsildar (Flying Squad), Viluppuram, had verified all the family cards attached to the Fair Price Shop No.1 in Kottakuppam Village and thereby submitted his report as stated below:-

I) Shortage of PDS commodities found in the shop:

a) Rice - 5627 kgs. (5627x12.18) = Rs.68,537/-

II) Bogus Billing:-

b) Rice, Sugar, Kerosene and Wheat = Rs.4,945/-

7. It is also seen that, after receiving the report from the Special Tahsildar (Flying Squad), Viluppuram, the District Collector, in his letter dated 02.07.2008, had directed the Joint Registrar of Cooperative Societies, Viluppuram, to collect the above said amount of Rs.73,482/- from the petitioner/salesman of the Fair Price Shop in question, to take necessary action against the petitioner and also to arrest him under the Goondas Act.

8. Thus, the contention of the petitioner that the Fair Price Shop in question was so small and hence, he could not accommodate the entire PDS rice bags on that particular date i.e. on 28.05.2008 and hence, he had transported the PDS rice only for its safeguard, cannot be countenanced, since, as discussed above, a detailed enquiry was conducted and ultimately, the respondents 1 and 2 have concurrently decided against the petitioner.

9. In such view of the matter, for reasons stated above, I do not find any merit in the writ petition and accordingly, it is dismissed as devoid of any merit. No Costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Presiding Officer,
Principal Sessions Court,
Villupuram,
Villupuram District.

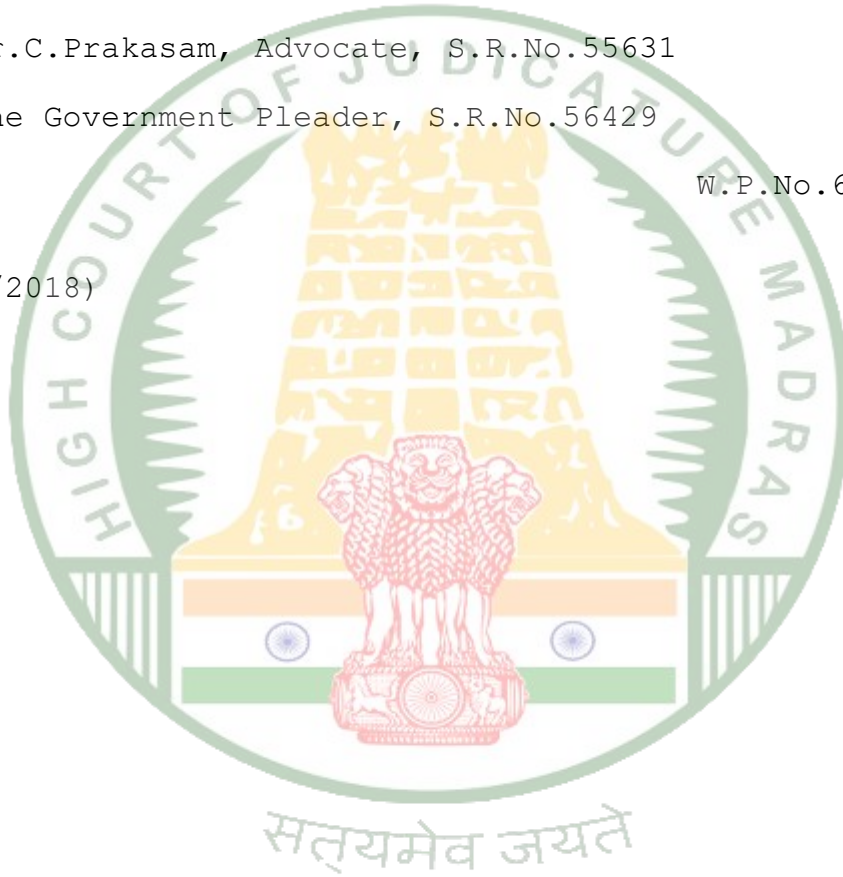
2.The District Revenue Officer,
Villupuram,
Villupuram District.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.55631

+1cc to the Government Pleader, S.R.No.56429

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SPD(CO)
GSP(06/09/2018)



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