

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.17554 of 2014

and M.P.No.2 of 2014

K.Madhavan

.... Petitioner

Vs.

1. The Managing Director,
Tamil Nadu Co-operative Milk Producer's Federation
Ltd., Aavin Illam,
Madhavaram Milk Colony,
Chennai - 600 051.

2. The General Manager,
Thanjavur Co-operative Milk Producer's Union,
D-870, Naanjikottai Road,
Thanjavur and District. Respondents

Prayer: Writ petition filed under Article 226 of the
Constitution of India for issuance of a Writ of
Certiorarified Mandamus to call for the records of the
second respondents in Na.Ka.160/Sales/02 dated 02.05.2014
and to quash the same and direct the second respondent and
to restore the supply of dairy products to the petitioner
stall.

For Petitioner : Mr.L.Chandrakumar
for J.Daniel Rajangam

For Respondent : Mr.T.K.Ashok Kumar,
Standing Counsel

O R D E R

The petitioner is aggrieved against the order of the
second respondent dated 02.05.2014, wherein and whereby,
the licence granted to the petitioner for selling dairy
products of the respondents was cancelled.

2. Heard Mr.L.Chandrakumar, learned counsel appearing for the petitioner and Mr.T.K.Ashok Kumar, Standing counsel for the respondents.

3. The petitioner was issued with a licence to run a shop for selling the diary products of the respondents. Such licence was issued to the petitioner in the month of December,2007, without fixing any duration of such licence. The impugned order is issued cancelling such licence by making certain allegations against the petitioner as though he has violated the terms and conditions of such licence. The main grievance of the petitioner before this Court is that the respondents have not followed the principles of natural justice before passing the impugned order. Thus, it is the claim of the petitioner that he was not put on notice before terminating the licence.

4. On the other hand, the learned counsel for the respondents submitted that while issuing the licence itself, it is specifically stated that the said licence will be cancelled without any notice and therefore, there is no necessity for issuing any notice to the petitioner.

5. There is no dispute to the fact that before terminating the licence, the petitioner was not put on notice. It is also not in dispute that the impugned order was passed, based on certain allegation made against the petitioner as though he has violated the terms and conditions of licence. When such being the factual position, there is no point in saying that the respondents have power to terminate the licence without notice, especially, when they make certain allegations against the petitioner of violation of the terms and conditions. Needless to say that if any such allegation is made, unless and until such allegations are found to be proved after hearing the petitioner, the respondents are not entitled to pass the order of termination unilaterally without hearing the petitioner. Therefore, I find that the respondents have violated the principles of natural justice, while passing the impugned order of termination. At the same time, this Court is not expressing any view on the merits of the allegations made by the respondents against the petitioner, as this Court has not gone into the merits of the same, at this stage. Since, this Court is satisfied to set aside the order only on the ground of violation of principles of natural justice, it is for the respondents to consider the matter afresh after hearing the petitioner and pass appropriate orders thereafter.

6. Accordingly, this Writ Petition is allowed and the impugned order is set aside only on the ground of violation of principles of natural justice. Consequently, the matter is remitted back to the second respondent for considering the matter afresh and pass fresh orders on merits and in accordance with law after giving due opportunity of hearing to the petitioner. Such exercise shall be done by the second respondent within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

vsi

To

1. The Managing Director,
Tamil Nadu Co-operative Milk Producer's Federation
Ltd., Aavin Illam,
Madhavaram Milk Colony,
Chennai - 600 051.
2. The General Manager,
Thanjavur Co-operative Milk Producer's Union,
D-870, Naanjikottai Road,
Thanjavur and District.

+1 CC to Mr.T.K.Ashok Kumar, Advocate Sr.No.37829

W.P.No.17554 of 2014

RSY(CO)
KP(03/04/2018)

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