

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2018

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.801 of 2016

and

W.M.P.Nos.618, 17937 & 4146 of 2016

Mr.S.Mohanraj

..Petitioner

vs

1.The Assistant Director of Drugs Control,
Zone-III, DMS Campus,
Chennai - 600 006.

2.The Director of Drugs Control,
DMS Campus,
Chennai - 600 006.

3.S.D.Gunasekaren

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for all the records on the file of the 1st respondent and quash the impugned Show Cause Notice 2294/JA1/2014 dated 24.07.2015.

For Petitioner : Mr.A.Arokiadoss

For Respondents: Mrs.A.Srijayanthi, Spl GP for R1 & R2

M/s.Gayatri.R.V.

For M/s.P.B.Balaji for R3

O R D E R

The impugned show cause notice dated 24.07.2015 issued by the 1st respondent is under challenge in this writ petition.

2.The learned counsel for the petitioner states that the writ petitioner is running a Medical Shop in the name and style of M/s.Andavar Medicals at Shop No-F O.No.37-B/1, New No.124/1, Arya Gowda Road, West Mambalam, Chennai - 600 033 since 1991. The petitioner claims that he was a tenant at the first instance with the 3rd respondent's brother S.D.Bhaskar for a monthly rent of Rs.525/- per month and he

paid a sum of Rs.25,000/- towards rental advance. However, in the rental agreement, it was wrongly mentioned as Rupees Five Thousand advance instead of Rupees Twenty Five Thousand. The agreement was entered into for a period of five years and the same was renewed in every five years.

3.The grievance of the writ petitioner is that the 3rd respondent has given a complaint with the respondents 1 and 2, stating that the writ petitioner has forged the signatures of the Landlord/3rd respondent and retaining the premises belongs to the 3rd respondent in a illegal manner and running a medical shop warranting actions by the Drugs Control Authorities. The 3rd respondent has submitted a complaint against the writ petitioner before the respondents 1 and 2 as well as before the Chief Minister Cell. In order to conduct an enquiry in respect of the complaint submitted by the 3rd respondent, the 1st respondent issued a show cause notice in proceedings dated 24.07.2015, directing the writ petitioner to submit his explanations, enabling them to take a decision.

4.The learned Special Government Pleader states that the show cause notice has been issued after conducting an inspection in the premises, wherein the writ petitioner is in occupation. Thus, a preliminary enquiry has been conducted and based on the preliminary enquiry, the show cause notice has been issued to the writ petitioner, enabling him to avail the opportunity and submit his explanation/objections in respect of the allegations set out by the 3rd respondent in his complaint. Instead of submitting the explanation/objections in response to the show cause notice, the writ petitioner has chosen to file the writ petition, challenging the very show cause notice.

5.No writ petition can be entertained against a show cause notice in a routine manner. A writ against a show cause notice can be entertained, if the same has been issued by an authority having no jurisdiction or competency 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 to be raised, to be impleaded as a 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 and the judicial review against such show cause notices are certainly limited.

6.The complex facts and circumstances cannot be adjudicated in a writ proceedings under Article 226 of the Constitution of India. When the authorities have taken up

the process of enquiry in respect of certain allegations or complaints submitted by the aggrieved persons, such authorities must be allowed to scrutinize the documents, receive the statements if any from the respective parties, conduct an enquiry and thereafter, take a decision and pass orders and only after passing of the final orders. the aggrieved persons can approach the competent forum, either the Appellate Authority or the forum prescribed under any statute. This being the principles to be followed, this Court is of an opinion that the present writ petition filed challenging the very show cause notice deserves no consideration at all.

7.It is left open to the writ petitioner to submit his explanation/objections in respect of the allegations set out in the show cause notice by the competent authorities and defend his case by availing the opportunities provided. In the event of submitting any explanation by the writ petitioner, the respondents 1 and 2 are bound to conduct an enquiry by considering all the allegations and counter allegations, documents placed before them and take a decision and pass orders on merits and in accordance with law within a reasonable period of time and without causing any undue delay.

8.In this view of the matter, the writ petitioner has not established any acceptable and permissible ground, so as to entertain the present writ petition and accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Assistant Director of Drugs Control,
Zone-III, DMS Campus, Chennai - 600 006.
- 2.The Director of Drugs Control,
DMS Campus, Chennai - 600 006.

+2cc to Mr.A.Arokiadoss, Advocate SR.No.56320

+1 CC TO GOVERNMENT PLEADER SR.NO. 56833

+1cc to Mr.P.B.RAMANUJAM , Advocate SR.No.57085

W.P.No.801 of 2016

PVS (CO) ASK(11/09/2018)