

In the High Court of Judicature at Madras

Dated : 17.12.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mr.Justice N.SATHISH KUMAR

Writ Appeal No.2738 of 2018 & CMP.No.22544 of 2018

M/s.Malathy Constructions, rep.

By its Proprietor Y.Ramachandraiah

...Appellant

Vs

1. Union of India, rep.by its Secretary to Government of India, Ministry of Railways, New Delhi.
2. The Chairman, Railway Board, Rail Bhawan, New Delhi.
3. The General Manager, Southern Railway, Park Town, Chennai-3.
4. The Divisional Engineer (South), Office of the Divisional Railway Manager, Works Branch, Southern Railway, Park Town, Chennai-3.
5. The Financial Advisor & Chief Accounts Officer, C/O Office of the General Manager, Southern Railway, Park Town Chennai-3.

...Respondents

APPEAL under Clause 15 of the Letters Patent against the order dated 05.10.2018 made in W.P.No.26286 of 2018, praying call for the records of the 4th respondent with reference to reference to the tax entry in the Top Sheet for the Bill No.CC/IV/01/CGL/203 dated 02/01/2018 along with Tax Invoice No.MAS/262/S/2014/01 dated 02/01/2018 and quash the same.

For Appellant : Mr.Velayutham Pichaiya

For Respondents : Mr.P.T.Ramkumar

Judgment was delivered by T.S.SIVAGNANAM, J

We have heard the learned counsel for the appellant and Mr.P.T. Ramkumar, learned Standing Counsel accepting notice for the respondents.

2. This appeal has been filed by the appellant - writ petitioner challenging the order passed in W.P.No.26286 of 2018 dated 05.10.2018.

3. The said writ petition was filed by the appellant challenging an internal communication within the Railway Administration called as a 'top sheet'.

4. It is not clear as to how the appellant had access to the top sheet, which is enclosed in page 6 of the typed set of papers. If it is an internal communication not intended to be served on the appellant, then the records should have been kept safe or if the stand of the Railway Administration is that this top sheet will be enclosed along with the demand, then it is a different matter. In any event, this has to be looked into by the General Manager of the Southern Railway as to how the appellant had access to an internal communication.

5. So far as the relief sought for in the said writ petition is concerned, the learned Single Judge rightly held that in the absence of any individual communication/order, the appellant is not entitled to approach the Writ Court and that the proper course to be adopted is to make a representation ventilating their grievance.

6. The learned Standing Counsel for the respondent - Railway Administration submitted before the learned Single Judge that if any representation is made, the same would be considered.

7. However, the learned counsel for the appellant has reservations, as, according to the appellant, in respect of another contractor, though a representation has been given, no action was taken for over three months.

8. However, this submission is not supported by producing any records to show as to on what date, such a representation was made.

9. Be that as it may, the appellant has to exhaust the remedy granted by the learned Single Judge and at this juncture, the question of interfering with the top sheet by issuing a Writ of Certiorari does not arise.

10. For the above reasons, the writ appeal stands dismissed. No costs. Consequently, the connected CMP is also dismissed.

11. The appellant is directed to submit a representation to the fourth respondent within a period of two weeks from the date of receipt of a copy of this judgment. On receipt of such a representation, the fourth respondent shall consider and pass orders within a period of two weeks therefrom. It is made clear that the fourth respondent shall strictly adhere to the time limit, failing which, this Court will not hesitate to initiate action for contempt.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Union of India,
Ministry of Railways, New Delhi.
- 2.The Chairman, Railway Board,
Rail Bhawan, New Delhi.
- 3.The General Manager,
Southern Railway,
Park Town, Chennai-3.
- 4.The Divisional Engineer (South),
Office of the Divisional Railway
Manager, Works Branch,
Southern Railway,
Park Town, Chennai-3.
- 5.The Financial Advisor & Chief Accounts Officer,
C/O Office of the General Manager,
Southern Railway,
Park Town,
Chennai-3.

+2 ccs to Mr.Velayutham Pichaiya, Advocate, S.R.No.88539

+1cc to Mr.P.T.Ram Kumar, Advocate, S.R.No.87532

+1cc to the Special Government Pleader(taxes), S.R.No.88558

WA.No.2738 of 2018 &
CMP.No.22544 of 2018

SSM(08/01/2019)