



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A. (MD)No.1510 of 2017

and

C.M.P (MD)No.12079 of 2017

P.Chellamuthu

... Appellant/Writ Petitioner

Vs.

1. The District Collector,
Karur.

2. The District Revenue Officer/
District Supply Officer and
Consumer Protection Officer,
Karur.

3. S.Surya Prakasha,
District Supply Officer and
Consumer Protection Officer,
Karur.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent Act, against order made in W.P(MD)No.20959 of 2017 dated 14.11.2017 on the file of this Court.

Prayer in WP(MD). 20959/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records relating to the impugned notice dated 25.10.2017 in Na.Ka.K2/09/KAR/MAR/2017 issued by the 2nd respondent herein and quash the same.

For Appellant : Mr.AL.Kannan

for Mr.S.Manikandan

For Respondents

: Mr.S.Satheesh Kumar,

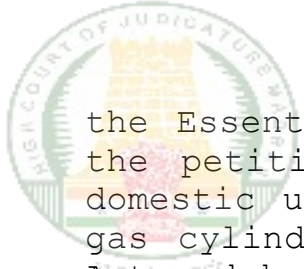
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by

M. SATHYANARAYANAN, J.)

The Writ Petitioner is the appellant and he made a challenge to the impugned notice, dated 25.10.2017 issued by the second respondent in his official capacity, under Section 6(B) of



the Essential Commodities Act, 1955. As per the impugned notice, the petitioner was keeping four Indane gas cylinders meant for domestic use and five empty cylinders and one more filled Bharat gas cylinder and the same is against the provisions of the said Act and he was called upon to appear on 15.11.2017 at 04.00 p.m., along with relevant documents. The Writ Petition was disposed of on 14.11.2017 by granting liberty to the petitioner to appear before the second respondent on 15.11.2017, along with the materials as well as objections, if any and on his presence, the second respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after affording due opportunity of hearing to the petitioner.

2.Mr.AL.Kannan, learned counsel appearing for the appellant/writ petitioner has invited the attention of this Court to the typed-set of documents and would submit that the petitioner in his earlier representation, dated 28.09.2017, has specifically pointed out non-application of mind on the part of the second respondent and also alleging malafide and in all fairness, the second respondent ought not to have dealt with the matter and ignoring the said representation, once again issued a fresh impugned notice, dated 25.10.2017, under Section 6(B) of the Essential Commodities Act, 1955 and hence, the petitioner was constrained to approach this Court by filing Writ Petition and without taking note of the allegation of malafide and bias, the Writ Petition was disposed of and therefore, the petitioner is constrained to approach this Court by filing the Writ Appeal and prays for interference.

3.Per contra, the learned Additional Government Pleader appearing for the respondents has drawn the attention of this Court to paragraph No.6 of the order passed in the Writ Petition and would submit that in the light of the representation made by the learned counsel appearing for the petitioner that the petitioner is inclined to appear before the second respondent for enquiry, recording the same, this Court passed appropriate orders and therefore, the remedy open to the petitioner, if any, is to file a review and the Writ Appeal is not maintainable and prayed for dismissal of the Writ Appeal.

4.This Court has heard the rival submissions and perused the materials available on record.

5.It is relevant to extract paragraph No.7 of the order passed in the Writ Petition in W.P(MD)No.20959 of 2017:-

"7.Recording the same, this Court, without going into the merits of the petitioner's claim, directs the petitioner to appear before the second respondent on 15.11.2017, along with the materials as well as objections, if any, and on his presence, the second respondent shall



consider the same and pass appropriate orders on merits and in accordance with law, after affording due opportunity of hearing to the petitioner."

6.The apprehension expressed by the appellant as to the attitude of the second respondent in dealing with this matter.

7.In the considered opinion of this Court, the apprehension expressed by the appellant with regard to malafide and bias, is not sustainable for the reasons that the learned Single Judge has also observed that he can appear before the second respondent along with the materials as well as objection, if any, and upon receipt of the same, the second respondent shall also consider the same, after affording due opportunity of hearing to the appellant/writ petitioner. It is open to the appellant to submit a detailed representation in response to the show-cause notice, dated 25.10.2017 along with the copy of his earlier representation, dated 28.09.2017 within a period of two weeks from the date of receipt of a copy of this order to the second respondent and upon receipt of the said representation, the second respondent is directed to consider the said representation on merits and in accordance with law, including the allegation of bias and pass appropriate orders within a further period of six weeks thereafter and communicate the decision taken to the appellant.

8.The Writ Appeal is dismissed subject to the above observations. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar(CRL SIDE)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Karur.

2. The District Revenue Officer/
District Supply Officer and
Consumer Protection Officer,
Karur.

+1cc to Mr.S.Manikandan, Advocate sr.No.40014

PS

VB/SV/MMS/SAR4/11/01/2018/3P/4C

**W.A. (MD) No.1510 of 2017
and**

**C.M. P (MD) No.12079 of 2017
02.01.2018**