

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2019

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.506 of 2018
and W.M.P.Nos.598 & 599 of 2018

T.Sankar

...Petitioner

Vs

1. The Managing Director,
Tamilnadu Civil Supplies Corporation,
No.12, Thambusamy Salai,
Kilpauk, Chennai -10.
 2. The Senior Regional Manager,
Tamilnadu Civil Supplies Corporation,
Master Plan Complex, Nagapattinam,
Nagapattinam District.
- ...Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.AD4/28893/2017, dated 03.08.2017 and quash the same.

For Petitioner : Mr.C.Prakasam
For Respondents : No appearance

सत्यमेव जयते
O R D E R

The show-cause notice issued to the writ petitioner in proceeding dated 03.08.2017, directing the writ petitioner to submit explanations/objections with reference to the decision taken by the Competent Authorities to review the order of punishment is under challenge in the present writ petition.

2. The learned counsel appearing on behalf of the writ petitioner states that as per GO.Ms.No.63, Personnel and Administrative Reforms Department dated 02.02.1996, the original authority is having the power of review for six months alone and if at all the authority decides to review the earlier order, the same can be done within a period of 6 months and not beyond

that.

3. The learned counsel further admits that the Government is competent to review the order at any point of time. The said submission is made with reference to Rule 36 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

4. This Court is of an opinion that, the respondent in this present writ petition is Tamil Nadu Civil Supplies Corporation. The applicability of the Rule is to be verified by the Competent Authorities. The power of review applicable to the Government cannot be applied directly to the Corporation in view of the fact that, Corporation is adopting a separate set of Discipline and Appeal Rules, for initiating disciplinary proceedings against the employees of the Tamil Nadu Civil Supplies Corporation. Thus, the writ petitioner is at liberty to submit his explanations/objections setting out all the factual discrepancies and details including the legal ground with reference to the maintainability of the review initiated by the Original Authority. In other words, the writ petitioner can raise the point of jurisdiction before the Competent Authorities for the purpose of dealing with the review petition now proposed to be initiated.

5. Contrarily, no writ petition can be entertained against the show-cause notice. In view of the fact that an opportunity provided to the writ petitioner so submit his explanations/objections to the Authorities concerned. No writ petition can be entertained in a routine manner against the show-cause notice. A writ against the show-cause notice can be entertained if the same is violation of Statutory rules in force or the Authority has not jurisdiction or if there is any allegation or malafides. Even in case of raising an allegation or malafides, the Authority against whom such an allegation is raised is to be impleaded as the respondent in his personal capacity in the writ proceedings. In the absence of any one of these legal grounds, no writ can be entertained against the show-cause notice.

6. It is left open to the writ petitioner to submit his explanations/objections in respect of the allegations and the reasons set out in the impugned notice and the Authorities Competent are bound to adjudicate all the issues and the grounds raised by the writ petitioner in this regard.

7. With these observations, the writ petition stands

dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Pkn/sbn

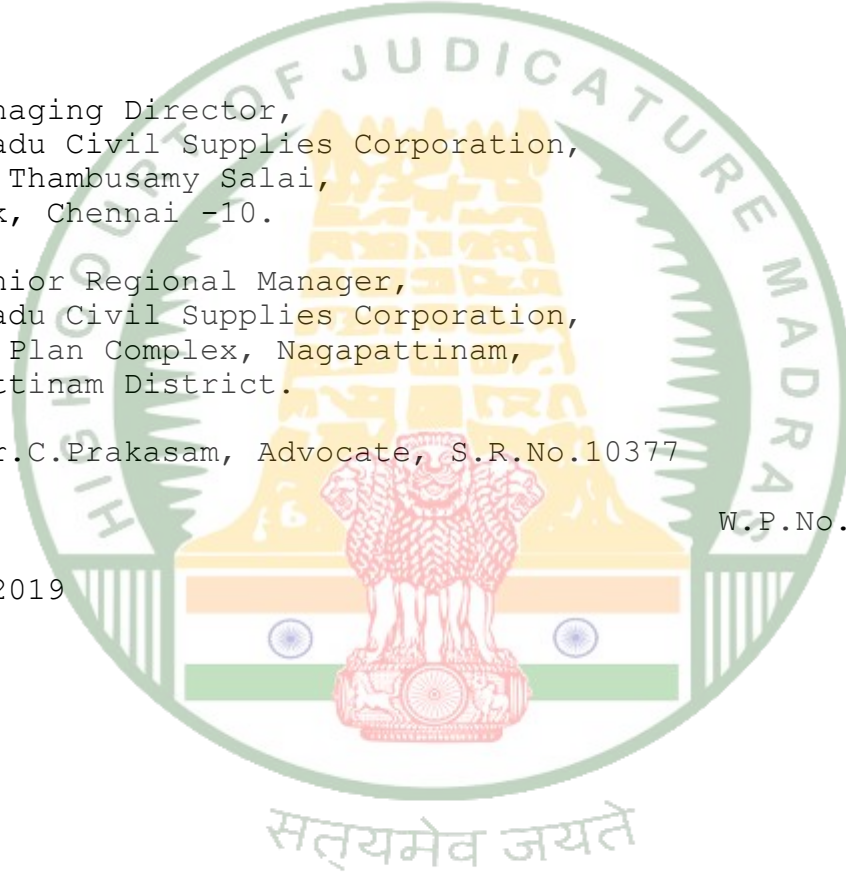
To

1. The Managing Director,
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Kilpauk, Chennai -10.
2. The Senior Regional Manager,
Tamilnadu Civil Supplies Corporation,
Master Plan Complex, Nagapattinam,
Nagapattinam District.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.10377

W.P.No.506 of 2018

GJ(CO)
CS/14/03/2019



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