

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.NO.9303 OF 2016

AND

W.M.P.NOS.8293 AND 8294 OF 2016

A.P.Radhakrishnan

... Petitioner

Vs

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation
No.12, Thambusamy Road,
Kilpauk, Chennai-10.

2. The Regional Manager,
Tamil Nadu Civil Supplies Corporation
Tiruvallur Region, Tiruvallur,
Tiruvallur District.

... Respondents

PRAYER :

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings No.Sae.Mu.Order No.M.D9/6610/2015, dated 08.02.2016 and quash the same and consequently directing the respondents to return the security deposit to the tune of Rs.2,10,000/- together with interest to the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmugasundaram,
Special Government Pleader

O R D E R

This writ petition has been filed challenging the order passed by the first respondent cancelling the petitioner's Transport contract and also black listed him.

2. The petitioner was awarded with a Transport Contract by the respondents / Tamil Nadu Civil Supplies Corporation (hereinafter called as Corporation) for transporting PDS rice from the Corporation godown to various Noon Meal Centres. A show cause notice was issued to the petitioner on the ground that the petitioner has failed to supply lorry to the Corporation from 12.01.2012, thereby violating clause 7 of the agreement. That apart, on 10.01.2015, the Civil Supplies CID has seized the lorry for illegally transporting 420 bags of PDS rice and a criminal case has been registered against the owner of the lorry and some other persons, alleging that the petitioner was also involved in the illegal transport, the petitioner was also one of the accused. In the above circumstances, since the petitioner violated the terms and conditions of the agreement, the petitioner was directed to give a reply why he failed to fullfill his contract. The petitioner has also submitted his explanation.

3. After considering the reply submitted by the petitioner, the second respondent passed an order cancelling the Transport contract given to the petitioner and also blacklisted him. Challenging the above order, the petitioner has filed an appeal before the first respondent. The first respondent appellate authority in its order dated 08.02.2016 dismissed the appeal and thereby, confirmed the order passed by the second respondent. Challenging the above order, the present writ petition is filed.

4. The respondents in their counter stated that the petitioner has involved in a criminal case for illegally transporting PDS rice. That apart, the petitioner has also not supplied the lorry as per the terms and conditions of the above agreement. In the above circumstances, after issuing a proper show cause notice and conducting enquiry, the second respondent cancelled the contract as per the terms and conditions of the agreement. The appellate authority after considering the entire materials rightly dismissed the appeal as there is no merit in the appeal.

5. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

6. The charges levelled against the petitioner are that the petitioner has failed to supply lorry as per the terms and conditions of the agreement and he has also involved in a criminal case for illegally transporting PDS rice. A perusal of the explanation given by the petitioner, it could be seen that since some of the Corporation officials and load-man were arrested by the police, pursuant to a criminal case petitioner

was not in a position to engage the load-man to load rice and hence, he was not able to supply the lorry. So far as the criminal case is concerned, it is stated that he has not involved in the case and he has been falsely implicated.

7. Considering the explanation in detail, after an enquiry, the second respondent has come to a conclusion that the explanation given by the petitioner is not satisfactory and held that the charges have been proved, thereby he cancelled the contract and back listed the petitioner as per the terms and conditions of the agreement. The first respondent appellate authority, after thorough analysis of the entire materials, dismissed the appeal and confirmed the order passed by the second respondent / Regional Manager, Tamil Nadu Civil Supplies Corporation.

8. I have gone through the entire materials available on record carefully. There is no illegality or irregularity in the orders passed by the appellate authority. Hence, there is no merit in this writ petition and it is deserves to be dismissed.

9. At this juncture, Mr.C.Prakasam, the learned Senior Counsel appearing for the petitioner would submit that after cancelling the contract, now the Corporation has withdrawn the security deposit amount paid by the petitioner to the tune of Rs.2,10,000/- illegally, which may be directed to be returned to the petitioner.

10. Whereas, the learned counsel appearing for the respondents would submit that, as per clause 7 of the terms and conditions of the agreement, in the event of the petitioner involved in illegal transportation of PDS rice, he is liable to pay 1-1/2 times value of the paddy rice. That apart, due to the non-supply of lorry, huge loss has been caused to the respondent Corporation and hence, the respondent Corporation is entitled to recover the loss caused to them. That apart, the petitioner was involved in the illegal transportation of PDS rice, penalty amount has to be recovered. The contention of the learned counsel appearing for the respondents cannot be accepted for the simple reason that eventhough clause 7 of the terms and conditions of the agreement, empowers the Corporation to impose penalty, no penalty has been levied on the petitioner. Even, in the impugned order, there is no mention about the penalty payable by the petitioner. In the absence of any such order, the respondents cannot withhold the amount paid by the petitioner. In the above circumstances, the respondents are directed to return deposit the security amount paid by the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

11. In the result, the writ petition is dismissed with the above direction. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

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To

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation
No.12, Thambusamy Road,
Kilpauk, Chennai-10.
2. The Regional Manager,
Tamil Nadu Civil Supplies Corporation
Tiruvallur Region, Tiruvallur,
Tiruvallur District.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.96892

+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.96929

W.P.No.9303 of 2016
and
WMP Nos.8293 and 8294 of 2016

CA(CO)
CS/04/02/2020