



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2019

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P (MD) No.8652 of 2010
and M.P. (MD) No.1 and 2 of 2010

A.Chitra

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District, Virudhunagar.

2.The Joint Registrar (Cooperative),
O/o. Joint Registrar Co-operative Societies,
Virudhunagar.

3.District Supply Officer,
Virudhunagar District,
Virudhunagar.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari, calling for the records pertaining to the impugned order in Na.Ka.C.S.No.4/10412/10 dated 18.06.2010 on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.M.Kalifullah

For Respondents : Mr.A.Thiyagarajan,
Government Advocate.

ORDER

The petitioner is the Secretary of the Aatral Women Federation, (in short 'Federation') that engages, according to it, in the development and betterment of women below the poverty line.

2.Pursuant to permission accorded on 04.09.2000 to run Co-operative Society Ration Shops in Trichuli Taluk, four fair price shops in V.Karisalkulam (main), Poombidakai, Thiruvallarnallur and S.Nankoor were allotted to the Federation for management. The present writ petition challenges an order, dated 30.06.2010 as per which the management of the aforesaid four Ration Shops have been transferred from the Federation to the Co-



operative Society on the basis of allegations and consequent enquiry.

3.The impugned order refers to a surprise inspection on 25.07.2010 when the Inspecting Authority found the fair-price shop closed. Upon enquiry among the general public, complaints were received about the functioning thereof.

4. Notices appear to have been issued to the saleswomen viz., Mrs.Shivagami of V.Karisalkulam, Irulayee of Boomipadagai, S.Nangur, Karuvakudi, Ms.Muthumari of Thiruvallarnallur and Ms.Dhanalakshmi of Tachanendal, who were called on 04.06.2010 and statements recorded. On the basis of the statements, the complaints received from the public and a report of the Special Tahsildar, Virudhunagar, dated 14.06.2010, the impugned order has been passed shifting the management of the four Fair-price shops to the Co-operative Societies with effect from 01.07.2010.

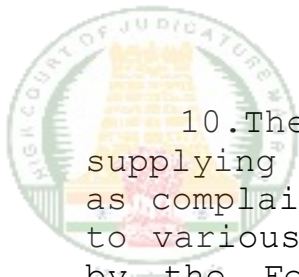
5.The short point raised is that the impugned order suffers from violation of the principles of natural justice in so far as it is the petitioner, the secretary of the Federation who ought to have been heard prior to any orders having been passed.

6.Admittedly, the report of the Tahsildar, Virudhunagar has not been supplied to the Federation prior to completion of enquiry.

7.The counter filed by the third respondent / District Supply Officer makes various other allegations; to the effect that three additional part time shops were being operated over and above the allotted three shops, food articles were sold in excess of the price fixed and that the timings set for functioning of the shops were not being followed. Also, no further notice need be issued, since the four saleswomen had attended the enquiry on the date stipulated and made their submissions.

8.The above allegations are, according to the petitioner factually baseless and the Federation could have responded appropriately and exonerated itself of all charges had notice been issued to the petitioner herein and she been heard.

9.It was certainly incumbent on the part of the authorities to furnish offending material upon which the impugned order is partly based, to the petitioner prior to concluding the proceedings as any material used against a person or entity, should be supplied/put to such person / entity, in order to enable it / them to rebut the same prior to drawing an adverse conclusion. Insofar this has not been done, the impugned order had to go.



10.The first respondent shall pass orders afresh, after supplying a copy of the inspection report dated 04.06.2010 as well as complaints stated to have received by the authorities in regard to various violations noted in the running of the Fair Price Shop by the Federation, to it. The person authorised to appear on behalf of the Federation is stated to be 'Ms.A.Chitra, the Secretary of the Federation'. I direct that notice shall be issued to the Federation and it shall be ensured that the person who appears in response thereto is one who is duly authorised to appear on its behalf and is conversant with all requisite facts.

11.After hearing the Federation through authorised representative and affording sufficient opportunity to it to produce all evidences in support of its contentions, orders shall be passed *de novo* within a period of six weeks from today in regard to the continuance or otherwise of the permit of the Fair Price Shops.

12.This Writ Petition is disposed as above. No costs. Consequently, connected Miscellaneous Petition are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Joint Registrar (Cooperative),
O/o. Joint Registrar Co-operative Societies,
Virudhunagar.

3.District Supply Officer,
Virudhunagar District,
Virudhunagar.

1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-79077[F] dated 01/08/2019)

PS

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