BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.14622 of 2019

and

W.M.P.(MD) No.11065 of 2019

P.Rajendran ... Petitioner

vs.

1.The Principal Secretary
Transport Department
Government of Tamil Nadu
Secretariat, Chennai-600 009

2.The Joint Managing Director
Tamil Nadu State Transport Development
Finance Corporation Ltd.
Triplicane, Chennai

3.M.Sugumar
Joint Managing Director
Tamil Nadu State Transport Development
Finance Corporation, Triplicane, Chennai ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the 1st respondent to take appropriate disciplinary action against the 3rd respondent for his deliberate and wilful misappropriation of the revenue of the transport corporation on the basis of the petitioner's representation dated 31.05.2019, within a time stipulated by this Court.

For Petitioner : Mr.K.Gokul

For Respondents : Mr.A.Muthu Karuppan
Additional Government Pleader

O R D E R

The relief sought for in the present writ petition is for a direction to the first respondent to take appropriate disciplinary action against the third respondent for his deliberate and wilful misappropriation of the revenue of the respondent / Transport Corporation, on the basis of the writ petitioner's representation, dated 31.05.2019.

2. The writ petitioner was an employee of the respondent / Transport Corporation served in the rank of Senior Superintendent and after completing 34 years of service, he was allowed to retire from service on 31.05.2016. He had submitted a representation to the competent authorities setting out certain grave and serious allegations against the third respondent, who is now working as Joint Managing Director of the Tamil Nadu State Transport Development Finance Corporation Limited, Triplicane, Chennai. The allegations set out in the representation as well as in the affidavit filed in support of the writ petition reveal that there were misappropriations and several illegalities and irregularities in dealing with the Transport Corporation funds and other allegations are also stated in the affidavit.

3. This Court is unable to neglect the allegations set out in the complaint submitted by the writ petitioner on account of the fact that the writ petitioner was employed as Senior Superintendent in the respondent / Transport Corporation and the allegations narrated in the complaint prompted this Court to consider the writ petition on hand for the limited purpose of directing the competent authorities to conduct an enquiry. Undoubtedly, the complaint contains certain allegations. However, the nature of the allegations seems to be very serious and already brought to the notice of the higher officials. Under these circumstances, the higher officials ought to have conducted an enquiry or investigation for the purpose of culling out the truth behind the allegations or ascertaining the genuinity of the allegations raised in the complaint.

4. It is the statutory obligation on the part of the competent authorities to ensure that the enquiry conducted in respect of such serious allegations. The authorities competent can commence with the discrete enquiry to ascertain the truthfulness in the contentions. Contrarily, such serious allegations raised by the erstwhile employee of the Transport Corporation in the cadre of Senior Superintendent can never be allowed to be buried by keeping the complaint pending for years together. Such an attitude is to be construed as favoritism on the part of the competent authorities against whom such allegations are raised. In the event of not conducting a fair and free enquiry, the trust and confidence in the administration of the Transport Corporations will be shakened. Thus, not conducting an enquiry into such serious allegations will provide a ground to draw a factual inference that the higher officials are also attempting to bury the complaint and such a situation will affect the efficiency in public administration.

5. In the present day context, corruption is a menace. Undoubtedly, corruption is the greatest enemy to the constitutional principles. Corruption is an anti-developmental element. In public domain, widespread allegations of corruption are being spoken towards Transport Corporations across the State of Tamil

Nadu. Interestingly, all the Transport Corporations in the State of Tamil Nadu are running in financial loss. Undoubtedly, the Transport Corporations are providing services to the remote villages of the State. However, one can easily understand that even in villages, now, travelling habits are considerably increased. In cities and urban areas, the buses are overloaded and large number of passengers are travelling day in and day out. Per contra, the private players in transport services are earning huge profit and day by day they are improving the number of omni buses and services. Under these circumstances, any citizen can logically think about the reason for which the Transport Corporations are sustaining heavy monetary loss. In every financial year, loss account is shown by these Transport Corporations. The competent authorities of the Transport Corporations are declaring that they are analyzing the reasons for such financial loss. However, the issues, which all are relevant, are neither addressed nor solved. It is a high time for the Government of Tamil Nadu to conduct an investigation and enquiry into the large scale allegations of misappropriation of funds, theft of articles, corruption, misuse of Corporation funds etc., including the activities of the higher officials in the Transport Corporations, so as to win the public confidence in the matter of administering the Transport Corporations across the State.

6. Immediate actions are imminent and warranted. Regular enquiries and inspections are to be conducted by an independent agency into the affairs of the Transport Corporations. It is brought to the notice of this Court that large number of employees, who all are attached to various politically associated unions, are not at all doing any job and receiving salary. It is contended by the learned counsel that even in Madurai alone, 200 employees of the Transport Corporation are receiving salary and other allowances without even performing any job attached to their post. All such situations are to be viewed seriously and stringent actions are to be initiated against the persons, who all are committing misconduct, misappropriation of funds, theft of articles, corruption etc. In the event of not accelerating the inspections and enquiries, then, the State is failing in its duty to maintain the efficient and effective public administration as enshrined under the Constitution of India. Swift actions in this regard alone will provide some improvement in the system. Delay in every aspect will dilute the very issue. Thus, the first respondent is duty bound to initiate all steps in this regard.

7. Decent salary, allowances and perquisites are being paid to all the employees and higher officials of these Transport Corporations. The monetary benefits of these officials are comparatively competitive. The private transporters are able to extract better work by paying lesser salary. However, by paying higher salary from the taxpayers money, the Transport Corporations are unable to control and extract better work for the purpose of earning profit through these Transport Corporations. Of course, Government Corporations cannot be aimed for making profit. However, the Transport Corporations being a commercial venture, any such organization should also think of earning profit. There are certain solemn functions, where the Government has to do only services. However, by way of earning profits and by way of collecting taxes from these ventures run by the Government, the State finance can be maintained for the purpose of providing welfare schemes and better services to the citizen of this great nation.

8. There is another complaint in the public domain that the higher officials in the Transport Corporations are also mis-utilizing the funds of the Corporations for their luxury living and to furnish their offices in a luxurious manner. All these unnecessary expenditures are to be monitored properly by the Government, so as to ensure that these Transport Corporations earn profit for the improvement of the Corporations to the next level.

9. Considering all these facts and circumstances of the case, this Court is inclined to pass the following orders:

i. The respondents 1 and 2 are directed to conduct an enquiry into the allegations set out in the representation submitted by the writ petitioner on 31.05.2019 and initiate all further actions, by following the procedures contemplated. Such an exercise is directed to be done within a period of six weeks from the date of receipt of a copy of this order.

ii. The first respondent is directed to conduct investigations and enquiries in order to ascertain the asset details of all the higher officials working in the management cadre as well as their spouse and dependants with reference to the declarations given by them in the service records and in the event of finding any discrepancy, disproportionate wealth or otherwise, all suitable prosecutions and disciplinary proceedings are to be initiated by following the procedures contemplated under law. Such an exercise is to be done by the first respondent within a period of four months from the date of receipt of a copy of this order.

iii. The first respondent is directed to issue suitable orders for fixing CCTV Cameras in the Bus Stand, Transport Corporation Depots, administrative offices as well as in the working places to monitor the working pattern as well as to ascertain the illegalities and irregularities, if any, committed in such places, for the purpose of improvising the efficiency level in the administration.

10. With these observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-I)

// True Copy //

Sub Assistant Registrar(CS)

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To:

1.The Principal Secretary,
Transport Department,
Government of Tamil Nadu,
Secretariat, Chennai-600 009.

2.The Joint Managing Director,
Tamil Nadu State Transport Development,
Finance Corporation Ltd.,
Triplicane, Chennai.

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and
W.M.P.(MD) No.11065 of 2019
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