



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP (MD) No.5993 of 2019

and

WMP (MD) Nos.4787 & 4788 of 2019

B.Naveen

... Petitioner

Vs.

1.The Secretary to Government,
Agriculture Department,
Fort St.George, Chennai - 600 009.

2.The Director of Sugar,
690, Annasalai, Chennai - 600 035.

3.The Chairman and Managing Director,
Tamil Nadu Sugar Corporation Ltd.,
Chennai - 600 035.

4.Metal Scrap Trading Corporation
(MSTC) Limited,
Government of India Company,
69, Armenian Street, Mannady,
George Town, Chennai.

5.The Chief Executive,
Arignar Anna Sugar Mill,
Kurunkulam, Thanjavur District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the fifth respondent vide G1.Accts/Scrap/D5/2018 dated 20.12.2018 and quash the same and consequently direct the fifth respondent to grant permission to access their premises to comply with the e-tender vide MSTC/SRO/18-19/172 dated 11.04.2018 within a time frame fixed by this Court.

For Petitioners : Mr.R.L.Dhilipan Pandian
for S.Elumalai

For Respondents : Mr.K.Mu.Muthu,
Additional Government Pleader

ORDER

The writ petitioner was awarded contract to remove iron scrap from the fifth respondent Mill on 11.04.2018. The fifth respondent alleged that the writ petitioner had tinkered with the process of weighing by inserting a chip in the control panel of the weigh



bridge. In this regard, Crime No.99 of 2018 was registered against the writ petitioner on the file of the Vallam Police Station for the offences under Sections 265 and 409 IPC. Thereafter, show cause notice dated 10.10.2018 was issued calling upon the writ petitioner to explain as to why the scrap contract awarded in his favour should not be cancelled. The petitioner submitted his reply on 10.11.2018 denying the allegations made against him. Not satisfied with the same, the fifth respondent passed the impugned order dated 20.12.2018 cancelling the contract and also forfeiting the amounts already remitted by the writ petitioner. Challenging the same, this writ petition came to be filed.

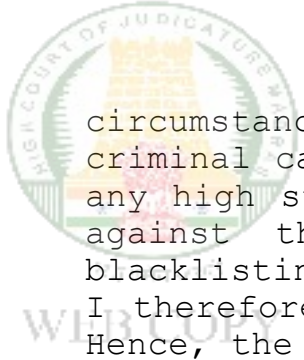
2. Heard the learned counsel on either side.

3. When the matter was taken up for admission on 14.03.2019, this Court ordered notice to the fifth respondent and adjourned the case to 21.03.2019. The matter was taken up on the said date and the counsel for the fifth respondent argued in support of the impugned order. After hearing the learned counsel appearing for the fifth respondent, this Court posted the matter on 26.03.2019 to enable the fifth respondent to file any additional material in support of their stand. On 26.03.2019, the fifth respondent produced a report from an agency which is said to have set right the weigh bridge weight issue problem.

4. I carefully considered the rival contentions. The allegations made against the writ petitioner is that he had tinkered with the control panel of the weigh bridge so that the weight of the goods that is taken out of the premises would be shown as less. A mere reading of the impugned order indicates that after the weight issue was noticed, they took up the matter with an agency by name "ANTARES WEIGHING". They noticed that in the junction box there was one remote board connecting with junction box PCB and that the weight itself was reduced only on account of this unwanted connectivity. After the said board was removed, the working condition of the weigh bridge was restored. To this effect, they submitted a letter dated 22.04.2018.

5. From this report, one cannot come to the conclusion that the writ petitioner was responsible for the installation of the remote board. The fifth respondent has come to the conclusion that the writ petitioner was a beneficiary and therefore, it is he who must have done this mischief. This Court fails to understand the logic of the respondent. The weigh bridge is maintained by the employees of the fifth respondent. The writ petitioner has no control over the same. The fifth respondent in their counter affidavit has stated that since the CCTVs were also disabled, one could not find out as to who opened the junction box and installed the remote board.

6. It is not in dispute that there is no direct evidence in support of the allegation made against the writ petitioner. The fifth respondent wants to fasten the liability on the writ petitioner only on the strength of the circumstantial evidence. If one wants to come to an adverse inference, on that basis, the



circumstances must be sufficiently strong. Of course, it is not a criminal case and this Court would not be justified in insisting on any high standard of proof. But then, there must be some material against the writ petitioner. This is because an order of blacklisting has serious civil consequences for the writ petitioner. I therefore hold that the impugned order is based on no evidence. Hence, the order impugned in this writ petition is set aside.

7.This writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl Side)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Secretary to Government,
Agriculture Department,
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- 5.The Chief Executive,
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Kurunkulam, Thanjavur District.

+1cc to M/s.Special Government Pleader,SR.No. 57388,57023
+1cc to Mr.S.ELUMALAI, Advocate, SR.No. 57568

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