



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.24992 2018

P.Maharajothi

... Petitioner

Vs.

1.The District Collector,
Karur District,
Karur-639 007.

2.The Superintendent of Police,
Karur District,
Karur-639 007.

3.The Special Tahsildar,
Tamil Nadu Arasu Cable TV,
Karur,
Karur District.

4.Balasubramani

5.Moorthy

6.Rathinavelu

7.T.Anbazhagan

8.The Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhavan,
Jawaharlal Nehru Marg,
(Old Minto Road),
New Delhi-110 002.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 24.09.2018 in Na.Ka.No.12623/2018(E1) issued by the first respondent and quash the same and consequently, direct the first respondent to take action against the respondents 4 to 6 for misusing their official capacity and sealing the petitioners cable premises.

For Petitioner :Mr.B.Prasanna Vinoth

For R1 & R2 :Mr.M.Karuppasamy
Government Advocate

For R3 :Mr.S.Gunasekaran

For R5 to R7 :No appearance

For R8 :S.Sivakumar



ORDER

Heard the learned counsel appearing for the writ petitioner, the learned Government Advocate appearing for the respondents 1 and 2 and the learned standing counsel appearing for the respondents 3 and 8. Even though the respondents 4 to 7 have been served and their names are printed in the cause list, they have not chosen to enter appearance either in person or through counsel.

2.The writ petitioner is a cable TV Operator. The respondents 4 to 6 in their capacity as officials working in the Arasu Cable TV Corporations. The petitioner's premises were sealed by them.

3.The petitioner's specific case is that action should be taken against the aforesaid officials for having acted in excess of their jurisdiction. The petitioner filed a representation in that regard. The Hon'ble Division Bench, by order dated 12.07.2018, directed the District Collector, Karur District to consider the petitioner's representation. Pursuant to the aforesaid direction, the impugned order dated 24.09.2018 came to be passed rejecting the petitioner's request. This order is under challenge in this writ petition.

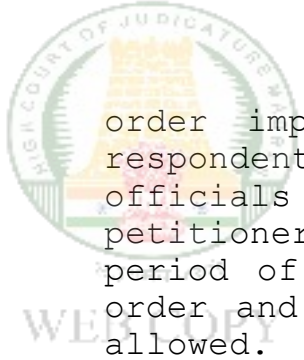
4.In the impugned order, it has been asserted that the sealing of the writ petitioner's premises was in terms of the Cable Television Networks (Regulation) Act, 1995 and the rules framed thereunder.

5.This Court posed a specific question to the learned Government Advocate as to which provision, enabled the authorised officials concerned to seal the petitioner's premises. The learned Government Advocate submitted that Section 11 of the said Act conferred power on them to seal the petitioner's premises. Section 11 of the said Act reads as under:-

"11.Power to seize equipment used for operating the cable television network:- If any authorised officer has reason to believe that the provisions of Section 3, Section 4-A, Section 5, Section 6, Section 8, Section 9 or Section 10 have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network.

Provided that the seizure of equipment in case of contravention of Section 5 and 6 shall be limited to the programming service provided on the channel generated at the level of the cable operator."

6.A bare reading of the said provision indicates that only power to seize the equipment used for operating the cable television network has been given. There is no power to seal the petitioner's premises. Therefore, the stand taken by the first respondent is clearly erroneous. In this view of the matter, the



order impugned in this writ petition is quashed. The first respondent is directed to take disciplinary action against the officials who had illegally and unauthorisedly sealed the petitioner's premises. Such an action shall be initiated within a period of four weeks from the date of receipt of a copy of this order and taken to its logical conclusion. The writ petition is allowed. No costs.

Sd/-

Assistant Registrar (T & P)

// True Copy //

Sub Assistant Registrar (CS)

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To

1.The District Collector,
Karur District,
Karur-639 007.

2.The Superintendent of Police,
Karur District,
Karur-639 007.

3.The Special Tahsildar,
Tamil Nadu Arasu Cable TV,
Karur,
Karur District.

+1CC TO MR.S.GUNASEKARAN, Advocate Sr. No.61748
+1CC TO MR.S.SIVAKUMAR, Advocate Sr. No.62251
+2CC TO MR.B.PRASANNA VINOTH, Advocate Sr. No.62011
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.62100

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23.04.2019

RP(CO)

TR (07.05.2019) 3P 9C