



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2019

CORAM

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

W.P. (MD) .No.17337 of 2019 and
WMP (MD) .Nos.13830 and 13831 of 2019

A. Xavier Joseph

.. Petitioner

Vs.

The Commissioner,
Sivagangai Municipality,
Sivagangai District.

..Respondent

PRAYER: Writ petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the impugned order issued by the respondent in his proceedings in Na.Ka.No.1939/2018/C1 dated 18.07.2019, quash the same.

For Petitioner

: Mr. S.M. Mohan Gandhi

For Respondent

: Mr. J. Lawrence, Standing Counsel

O R D E R

This Writ Petition has been filed to quash the impugned order issued by the respondent in his proceeding in Na.Ka.No.1939/2018/C1, dated 18.07.2019.

2. Today, when the matter was taken up for hearing, the learned counsel appearing for the petitioner has filed an affidavit of undertaking before this Court stating that the petitioner has not been employed in any other establishment. He would further submit before this Court that recording the said submission, the impugned order passed by the respondent is liable to be quashed and remitted back to the authority concerned.

3. Further, the petitioner also undertakes to file his declaration under FR 53(2) of the Fundamental Rules

4.The learned Standing Counsel appearing for the respondent / Corporation would submit that if the petitioner files such an undertaking, the same will be considered by the respondent / Corporation on merits and in accordance with



5. Considering the submissions made by the learned counsel appearing on either side and in the interest of justice, this Court has no hesitation to quash the impugned order of the respondent and to pass the following order:

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(i) The impugned order passed by the respondent, dated 18.07.2019 is quashed.

(ii) The matter is remitted back to the respondent to consider afresh and pass appropriate orders on merits and in accordance with law, after providing an opportunity to the petitioner for filing such certificate under FR 53(2) of the Fundamental Rules, as expeditiously as possible, in any event, not later than twelve weeks from the date of receipt of a copy of this order.

(iii) It is made it clear that the petitioner shall file the above said certificate within a period of one week form the date of receipt of a copy of this order.

(iv) It is also made it clear that the impugned order is quashed, only on the ground of non furnishing of the certificate alone.

6. This Writ Petition is allowed on the above terms . No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

The Commissioner,
Sivagangai Municipality,
Sivagangai District.

+1 CC to Mr.J.LAWRANCE, Advocate SR-81262.

+1 CC to Mr.S.M.MOHAN GANDHI, Advocate SR-81549.

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