

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.7165 of 2020
and

W.M.P.Nos.8551 & 8553 of 2020

S.Kumutha
W/o.Sakthivel
Om Muruga Magalir Mandram
Puliyampatti Village
T.Thurinjipatti Post
Dharmapuri Taluk
Dharmapuri District.Petitioner

Vs.

- 1.The Assistant Director of Agriculture
(Agriculture Marketing)
Dharmapuri
Dharmapuri District.
- 2.The District Collector
Dharmapuri District.Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the entire records relating to the impugned order dated 05.02.2020 of the 1st respondent made in Se.Mu.Order No.E/199/2020, quash the same as arbitrary and illegal.

For Petitioner : Mr.R.Prabakar

For Respondents: Mr.R.Govindasamy
Special Government Pleader

O R D E R

This matter is taken up for hearing through Video Conferencing mode.

2. This writ petition is filed challenging the order of the first respondent dated 05.02.2020, wherein and whereby, permission granted to the petitioner to sell vegetables in the shop premises of Uzhavar Sandhai, Dharmapuri, was cancelled by stating certain reasons.

3. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

4. A counter affidavit is also filed by the first respondent.

5. The main grievance of the petitioner is that the impugned order was passed in total violation of principles of natural justice, as the petitioner was not given any notice or opportunity of hearing before passing the impugned order. Though the petitioner has contended certain facts and circumstances in the affidavit with regard to the merits of the allegations made against her, this Court, at this stage, is not inclined to go into those merits of the allegations, as this Court is fully convinced that the impugned order suffers solely on the ground of violation of principles of natural justice, since no notice was issued to the petitioner before passing the impugned order. Admittedly, the allotment order was issued in the name of the petitioner on 13.07.2012 and further permission was granted by the first respondent on 04.11.2016. Therefore, when such permission is sought to be cancelled based on certain allegations, it is necessary for the first respondent to issue notice to the petitioner and call for explanation and thereafter, after giving due opportunity of personal hearing, he can pass orders on merits and in accordance with law. In this case, the very impugned order reads that the same came to be passed after conducting field enquiry only. Therefore, it is evident that the petitioner was not put on any notice before passing the impugned order and on the other hand, the first respondent has proceeded to pass the same after conducting field inspection. Assuming that if there are some violations, still the petitioner has to be put on notice on the said violations and she should be called upon to give explanation, which in this case, has not been done. Therefore, solely on the ground of violation of principles of natural justice, this Court is inclined to set aside the impugned order and remit the matter back to the first respondent to pass fresh orders, after giving notice and personal hearing to the petitioner.

6. Accordingly, this Writ Petition is allowed and the impugned order is set aside and the matter is remitted back to the first respondent, who in turn shall issue notice to the petitioner and thereafter, pass final orders after hearing the petitioner on merits and in accordance with law, as this Court is not inclined to express any view on the merits of the allegations made against the petitioner. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi/mk

To

1.The Assistant Director of Agriculture
(Agriculture Marketing)
Dharmapuri
Dharmapuri District

2.The District Collector
Dharmapuri District

+1 cc to Mr.R.prabakar Advocate sr30191

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