

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 02.07.2020

ORDERS PRONOUNCED ON:04.09.2020

CORAM:

THE HONOURABLE Mr.JUSTICE R.SUBBIAH
AND
THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.P. No.8662 of 2020
and WMP.Nos.10490 & 10491 of 2020

(Heard through video-conferencing)

M/s.Karuppu Ezhuthu Kazhagam,
Rep. by its President,
No.5, M.Kallupatti Post,
Marugapurai Taluk,
Trichy District 621 308.

..Petitioner

Versus

1. The Government of Tamil Nadu,
Rep. By its Principal Secretary to Government,
Department of Commerical Taxes and Registration (H),
Secretariat, Fort St. George,
Chennai 9.
2. The Inspector General of Registration (IGR),
Office of the Inspector General of Registration,
No.100, Santhome High Road,
Chennai 600 004.
3. The Secretary,
Vigilance Commissioner,
Secretariat, Fort St. George,
Chennai 600 009.
4. The Director,
Directorate of Vigilance and Anti-Corruption,
No.293, MKNRoad,
Alandur, Chennai 600 014.
5. The Deputy Inspector General of Registration/
The Enquiry Officer,
3rd Block, 2nd Floor, Electronics Complex,
Guindy, Chennai 600 032.

6. R.V.Raghumoorthy,
District Registrar,
Combined Registration Complex,
4th Gandhi Street, Bazaar Street,
Arakkonam Taluk, Arakkonam 631 001.
Ranipet District.

7. B.Sivapriya,
District Registrar (Now under suspension)
(Through the Inspector General of Registration, Chennai 4
as per the impugned order.) ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus to call for the records from the 1st and 2nd respondents and in particularly from the 1st respondent pertaining to the impugned G.O.(Rt).No.91, dated 26.02.2020 and quash the same and consequently direct the 1st respondent to impose punishment against the 6th and 7th respondents based on the enquiry report submitted on 11.11.2015 former inquiry officer, Deputy Inspector General of Registration.

For petitioner : Mr.P.Vijendran

For respondents

For RR1, 2, & 5 : Mr.P.H.Arvind Pandian, AAG
asst. by Mr.T.M.Pappiah, Spl.G.P.

For RR3, 4, 6 & 7 : Mr.V.Jayaprakash Narayan, G.P.

ORDER

The Writ Petition has been filed as a Public Interest Litigation (PLI) to call for the records from the respondents 1 and 2, particularly, from the first respondent pertaining to G.O.(Rt).No.91, dated 26.02.2020 and quash the same and consequently, direct the first respondent to punish the respondents 6 and 7 based on the enquiry report dated 11.11.2015.

2. Though very many contentions have been raised in this Writ Petition, the crux of the allegation is that the respondents 6 and 7, while working in the Registration Department, indulged in mismanagement, and hence charges were framed against them under Section 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules by the second respondent. After conducting enquiry, 4 out of 5 charges and 3 out of 4 charges, respectively, were proved against them.

3. Now, the second respondent had issued G.O.(Rt).No.91, dated 26.02.2020 for conducting further enquiry as against the respondents 6 and 7, by appointing one Mr.R.Janarthanam, Deputy Inspector General of Registration, Chennai Zone as the Inquiry

Officer. The relevant paragraph from the said G.O. is extracted hereunder:

"NOW, THEREFORE, the Government hereby appoints Thiru.R.Janarthanam, Deputy Inspector General of Registration, Chennai Zone as the Inquiry Officer to inquire further into the charges framed against the said Thiru.R.V.Raghumoorthy, District Registrar and Tmt.B.Sivapriya, District Registrar (now under suspension).

The said Inquiry Officer is directed to conduct the inquiry further following the procedure laid down in Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and send the report expeditiously.

The hearing may be held at the place where the Government Servant was employed at the time of commission or omission of the act forming the ground for the disciplinary proceedings and or where the documentary evidences and witnesses are likely to be readily available. The Inquiring Authority may, however, fix any other place for the inquiry or different places for different hearings during the course of the inquiry, considering the convenience of the parties concerned with reference to the purpose of each hearing."

4. The contention raised by the learned counsel for the petitioner is that already charges were proved against the respondents 6 and 7, except one charges each against them. Therefore, there is no need to appoint an inquiry officer now and conduct further enquiry. Further, it is contended that though the earlier inquiry officer submitted his report on 11.11.2015, the official respondents had slept over the matter for more than 4 years and suddenly, now the present G.O. is issued for further enquiry, which is not permissible in law. Therefore, the petitioner has come forward with this petition.

5. It is further contended that the Revenue Department is the axle to run the Government financially and more particularly, the Registration Department, which generates more Revenue. But some of the corruptive officials like the respondents 6 and 7 herein stood as stumbling block from reaching the Revenue to the Government exchequer, as they themselves looted the amount for their personal gain. Hence, based on the earlier enquiry report, punishment has to be imposed against the respondents 6 and 7.

6. In the counter affidavit, the learned Additional Government Pleader made a statement that this Writ Petition has been filed in respect of service matter, against which, PIL is

not maintainable. The service matters are essentially between the employer and the employee and hence, the petitioner has no locus standi to question the impugned order. The learned Additional Government Pleader in support of his case relied upon the judgments of i) Surya Vetrikondan v. State of Tamilnadu (W.P.No.7671 of 2020), ii) Abdullah v. State of Tamil Nadu, reported in (2019) 1 CTC 88 and iii) A.Raja v. Govt. of T.N. 2019 SCC on-line Mad 12322 (WP.No.26119 of 2018).

7. On a perusal of records, it is seen that the respondents 6 and 7 are Government Servants in the Registration Department. It is the contention of the learned counsel for the petitioner that the respondents 6 and 7 indulged in acts of corruption by way of tampering of records. Hence, disciplinary action was initiated against them and the inquiry officer submitted his report finding them guilty. Now, the impugned order has been issued for appointment of a new inquiry officer to enquire into the matter. Since already an enquiry report was submitted holding them guilty, the question of appointing a new inquiry officer does not arise. Thus, issuance of the said G.O. will lead to exonerate the corrupted officers and therefore, the petitioner has filed this petition to quash the said G.O.

8. We are of the opinion that the very allegation made in the affidavit shows that this Writ Petition relates to service matter. So far as service matter is concerned, PIL is not maintainable. In the above context, following judgments have been relied on by the learned Additional Government Pleader, i) Surya Vetrikondan v. State of Tamilnadu, ii) Abdullah v. State of Tamil Nadu, reported in 2019 1 CTC 88 and iii) A.Raja v. Govt. of T.N. 2019 SCC online Mad 12322.

i) In Surya Vetrikondan v. State of Tamilnadu, the relevant portion reads as follows:

"(4) The Personnel and Administrative Reforms [A] Department has issued an order in G.O.Ms.No.99 dated 21.09.2015 issuing instructions as to the disposal of the grievance petitions presented to the Government offices.

(5) As rightly pointed out by the learned Special Government Pleader appearing for the official respondent, the writ petition pertains to service matters as to the increase in age of persons who would apply for Government and allied jobs and in the light of the above said judgment/decision, the writ petition is not maintainable. It is not as if the petitioner is not left with any other remedy for the reason that in respect of the representation submitted, the petitioner is always at liberty to invoke the provisions of the Right to Information Act, to know about the fate of his representation.

(6) In the result, the writ petition is dismissed subject to above observations. No costs."

ii) In Abdullah v. State of Tamil Nadu, reported in 2019 1 CTC 88, the relevant portion reads as follows:

"34. Further, in the decision in BHOLA NATH MUKHERJEE v. RAMAKRISHNA MISSION VIVEKANANDA CENTENARY COLLEGE (2011) 5 SCC 464, the Hon'ble Supreme Court has held that petitions, filed as Public Interest Litigation, in the service matters, are not maintainable.

35. Therefore, the principles laid down by the Hon'ble Supreme Court of India, makes it clear that the Public Interest Litigation is not maintainable in service matters. Accordingly, the above decision is squarely applicable to the present case on hand. Hence the same is not maintainable, hence, it is rejected."

iii) In A.Raja v. Govt. of T.N. 2019 SCC online Mad 12322, the relevant portion reads as follows:.

"27. Even as regards the filing of a Public Interest Litigation, this Court has consistently held that such a course of action is not permissible so far as service matters are concerned. (Vide: Dr. Duryodhan Sahu v. Jitendra Kumar Mishra, (1998) 7 SCC 273 : AIR 1999 SC 114; Dattaraj Natthuji Thaware v. State of Maharashtra, (2005) 1 SCC 590 : AIR 2005 SC 540; and Neetu v. State of Punjab, (2007) 10 SCC 614 : AIR 2007 SC 758)

28. In Tmt. Sumathi and four others v. State, rep. by the Chief Secretary to the Government of Tamil Nadu, Chennai (W.P. No. 25704/2013, Decided on 13.03.2014), a Hon'ble Division Bench of this Court, held that PIL is not maintainable in service matters.

29. In a latest decision in Tmt.P. Lakshmi v. State, rep. by the Chief Secretary, (W.P. No. 25704/2013 Decided on 13.03.2014), the Hon'ble First Bench of this Court, held that writ petition is not maintainable in service matters.

30. At this juncture, we deem it necessary to extract Article 141 of the Constitution of India, which reads as follows:-141. Law declared by Supreme Court to be binding on all courts.-- The law declared by the Supreme Court shall be binding on all courts within the territory of India.

31. That apart, learned counsel for Gobi Arts and Science College (Autonomous)/5th respondent, submitted that appointments made, have been approved by the education department.

32. In the light of the decisions stated supra, instant writ petition is dismissed. No costs."

9. Further, a PIL cannot be entertained in respect of service matters, as has been categorically held by the Supreme Court in the decisions reported in 1998 (7) SCC 273 (Dr.Duryodhan Sahu vs. Jitendra Kumar Mishra) and 2005 (1) SCC 590 (Dattaraj Nathuji Thaware vs. State of Maharashtra). The Supreme Court in the latter decision (2005 (1) SCC 590) has stated the legal position as under in paragraph 16:

"16. Though the parameters of Public Interest Litigation have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, the Courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilised for disposal of genuine cases. Though in Duryodhan Sahu (Dr.) v. Jitendra Kumar Mishra (1998 (7) SCC 273 : 1998 SCC (L & S) 1802 : AIR 1999 SC 114, this Court held that in service matters, PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the Courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. "

Again in Paragraph 20 in 2005 (1) SCC 590, the Supreme Court has expressed its displeasure against the members of the Bar in either aiding or abetting filing of the frivolous petitions carrying the attractive brand-name of "Public Interest Litigation."

10. As we have held that the Writ Petition filed as "Public Interest Litigation" itself is not maintainable, we are not going into the merits or otherwise of the averments made in the affidavit filed in support of the Writ Petition.

11. In view of the above findings and in the light of the above judgments cited by the learned Additional Government Pleader appearing for the respondents 1, 2 and 5, this Court is of the view that the impugned G.O., issued by the first respondent need not be interfered with by us. Hence, this Writ Petition is liable to be dismissed. Accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Government of Tamil Nadu,
Department of Commerical Taxes and Registration (H),
Secretariat, Fort St. George,
Chennai 9.
2. The Inspector General of Registration (IGR),
Office of the Inspector General of Registration,
No.100, Santhome High Road,
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3. The Secretary,
Vigilance Commissioner,
Secretariat, Fort St. George,
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4. The Director,
Directorate of Vigilance and Anti-Corruption,
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6. District Registrar,
Combined Registration Complex,
4th Gandhi Street, Bazzar Street,
Arakkonam Taluk,
Arakkonam 631 001.
Ranipet District.

+1cc to the Government Pleader in SR.NO..29087 and 29266

Order in
W.P. No.8662 of 2020

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RV(14/10/2020)