



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.02.2020**

CORAM:

THE HONOURABLE **MR. JUSTICE M.S.RAMESH**

W.P. (MD) No.1446 of 2020

and

W.M.P. (MD) No.1153 of 2020

M.Radhakrishnan

... Petitioner

/vs./

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Tahsildar,
Devakottai Taluk,
Devakottai,
Sivagangai District.

3.Sivasambo
Tahsildar,
P.A to District Supply Officer,
Sivagangai,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the proceedings of the second respondent made in Na.Ka.No.Aa3/6975/2013 dated 04.01.2019 served on 21.01.2020 and quash the same.

For Petitioner : Mr.M.Suresh Kumar
For Respondents : Mr.K.Chellapandian
Additional Advocate General
assisted by Mr.R.Sethuraman
Special Government Pleader



ORDER

On a set of charges, the petitioner was subjected to departmental enquiry. Challenging the charge memo, the petitioner had filed W.P(MD).No.5114 of 2018 and by an interim order dated 23.10.2018, the respondents 1 and 2 were directed to conduct the enquiry on a day-to-day basis, with a further direction to keep the order to be passed in a sealed cover and produced before this Court. Accordingly, the enquiry came to be completed and the impugned order dated 04.01.2019 was also passed, imposing the punishment of dismissal of the petitioner's service. The said impugned order dated 04.01.2019 was initially kept in the sealed cover and produced before this Court, pursuant to the earlier directions dated 23.10.2018 passed in W.P(MD).No.5114 of 2019.

2.In this background, this Court, by a subsequent order dated 06.11.2019, had dismissed the writ petition with a direction to the respondents 1 and 2 to furnish a copy of the order dated 04.01.2019 to the petitioner within one week. This order is put under challenge in the present writ petition, predominantly on the ground that the order is in violation of the principles of natural justice, since the enquiry report neither served nor the petitioner was granted opportunity to put forth his objections.

3.The action of the respondents in not extending an opportunity cannot be strictly found fault with, since they had acted on the earlier direction of this Court passed in W.P(MD).No.5114 of 2018. Nevertheless, the fact remains that the petitioner was not extended with an opportunity to put forth his objection to the enquiry report and the enquiry report also was not served on the petitioner initially. While that being so, the petitioner's right to raise his objection has been deprived of and the same could amount to violation of the principles of natural justice.

4.In this background, if the petitioner is given an opportunity to put forth his objections by having the impugned order set aside and thereafter, grant liberty to the respondents to consider such an objection, the ends of justice could be secured.

5.In the light of the above observations, the impugned order dated 04.01.2019 is set aside. Consequently, the second respondent is called upon to furnish a copy of the enquiry report dated 31.12.2018 and also issue a notice calling for objection from the petitioner to the enquiry. On receipt of such a notice, the petitioner herein shall give his objections, atleast within a period four weeks from the date of receipt of a show cause notice as well as the enquiry report. The respondents shall thereafter, act on such objection raised by the petitioner as expeditiously as possible and take further course of



action in accordance with law.

6.This Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Rmk

To:

1.The District Collector,
Sivagangai District, Sivagangai.

2.The Tahsildar,
Devakottai Taluk, Devakottai,
Sivagangai District.

+1 CC to M/s.SPL GP (SR-4548[F] dated 04/02/2020)

+1 CC to M/s.M.SURESH KUMAR, Advocate (SR-4567[F] dated
04/02/2020)

W.P. (MD) No.1446 of 2020

03.02.2020

KK/SAR/17.02.2020/3P-5C/