



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.07.2020**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD) No.8145 of 2020

and

W.M.P.(MD) No.7556 of 2020

(Through Video conferencing)

T.Selvakumar

...Petitioner

-Vs-

The Deputy Collector/District Manager,
TASMAC Limited, Theni,
Theni District.

...Respondent

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Certiorari, calling for the records relating to impugned order passed by the respondent vide his impugned proceedings Na.Ka.No.884/2019/A1 dated 26.06.2020 and another impugned order passed by the respondent vide his proceedings Na.Ka.No.884/2019/A1 dated 14.07.2020 and quash the same as illegal.

For Petitioner : Mr.M.Mohammed Imran for
M/s.Ajmal Associates

For Respondent : Mr.B.Jameel Arasu, standing counsel.

ORDER

The prayer sought for herein is for a writ of Certiorari, calling for the records relating to impugned order passed by the respondent vide his impugned proceedings Na.Ka.No.884/2019/A1 dated 26.06.2020 and another impugned order passed by the respondent vide his proceedings Na.Ka.No.884/2019/A1 dated 14.07.2020 and quash the same as illegal.



2. Heard Mr.M.Mohammed Imran for M/s.Ajmal Associates, learned counsel appearing for the petitioner and Mr.B.Jameel Arasu, learned standing counsel appearing for the respondent TASMAC.

3. The petitioner challenges the orders dated 26.06.2020 and 14.07.2020, issued by the respondent for recovery of a sum as penalty for selling IMFL with excess rate than it was fixed by the TASMAC in shop No.8541 at Theni District, where the petitioner was working.

4. I have heard the learned counsel appearing for the petitioner, who would submit that, the petitioner has not involved in any such sale of IMFL with excess rate that the one fixed by the TASMAC. The fact remains that, these two orders have been passed asking the petitioner to pay the amount before which, admittedly, no show cause notice has been given.

5. In this context, the learned standing counsel appearing for the respondent TASMAC would fairly submit that, before passing these impugned orders, the respondent ought to have issued show cause notice and in this regard, circulars have already been issued by the Head Office of the TASMAC to all the District Managers and their subordinates that, before passing any final order, they should issue show cause notice and after getting explanation from the employees concerned only, final order shall be passed. Despite the circulars having been issued and these officers have already been instructed and sensitized, sometime, in one or two cases, these kind of orders have been passed without issuing show cause notice. Therefore, hereafter, no such occurrence would be taken place.

6. The said stand taken by the learned standing counsel for the respondent TASMAC is hereby recorded and in view of the same, this Court is inclined to interfere with the impugned orders and both the orders since have been issued admittedly without any show cause notice to the petitioner, they are liable to be quashed, accordingly are quashed.

7. The matter is remitted back to the respondent for reconsideration. On reconsideration, if the respondent decides to proceed against the petitioner, proper show cause notice to be issued to the petitioner and after giving an opportunity to respond and after getting the explanation and the response from the petitioner, the respondent can proceed to pass final order. It is made clear that, hereafter, if the respondent passes any single impugned order like this without issuing a show cause notice, the Court will take a very serious view and in that case, heavy cost would be imposed on the Officer concerned and that would be recovered from the personal fund of the Officer concerned of the TASMAC.



8. With this observation, this writ petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Deputy Collector/District Manager,
TASMAC Limited, Theni,
Theni District.

Order made in
W.P. (MD) No. 8145 of 2020
28.07.2020

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SDS (12.08.2020) 3P-2C