



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.08.2020**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.8618 of 2020

and

W.M.P(MD).No.7977 of 2020

WEB COPY

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... Petitioner

-Vs-

1.The Senior Divisional Manager,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC),
Madurai.

2.The Deputy Collector/District Manager,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC),
Sivagangai.

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order dated 19.05.2020 of the second respondent in Na.Ka.No.A1/434/2020 and quash the same.

For Petitioner : Mr.J.Anandkumar
For Respondents : Mr.H.Arumugam
Standing Counsel

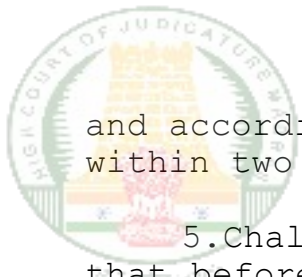
ORDER

The prayer sought for herein is for a Writ of Certiorari, to call for the records pertaining to the impugned order, dated 19.05.2020 of the second respondent in Na.Ka.No.A1/434/2020 and quash the same.

2.Heard Mr.J.Anandkumar, learned counsel appearing for the petitioner and Mr.H.Arumugam, learned Standing Counsel appearing for the respondents.

3.By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.

4.The petitioner has been working as Supervisor in TASMAC Shop No.7739 at Sivagangai District. While so, for the alleged shortage of stock, an order has been passed by the respondent on 19.05.2020, whereby the respondent has imposed penalty for shortage in stock value to the extent of Rs.1,52,000/- and also interest in GST at 18%



and accordingly, directed the petitioner to pay a sum of Rs.96,854/- within two days.

5.Challenging the said order, dated 19.05.2020, on the ground that before this order is passed no show cause notice was given and no opportunity was given to the petitioner, the petitioner has filed this writ petition with the aforesaid prayer.

6.The learned Standing Counsel for the respondent TASMAC would submit, on instruction, that since the impugned order, dated 19.05.2020 was issued without show cause notice to the petitioner, not only the present impugned order, but similar orders issued by TASMAC in respect of other employees had all been withdrawn by a common circular issued by the Head Quarters of TASMAC, dated 22.06.2020, accordingly, the impugned order has already been withdrawn.

7.The learned Standing Counsel also would submit that, subsequently, the show cause notice on the same day has been issued by the respondent to the petitioner to show cause as to why action should not be taken against him to recover the amount with regard to the alleged shortage of stock.

8.Eventhough the stand taken by the respondent that the subsequent show cause notice has been issued, the learned counsel appearing for the petitioner would submit that, according to his instructions, no show cause notice has been received by the petitioner.

9.Be that as it may, since the impugned order itself is admittedly has been withdrawn by the respondent TASMAC, the validity of the said order or otherwise need not be gone into by this Court in this writ petition.

10.In view of the above, this Court is inclined to dispose of this writ petition with the following directions:

'(i) that the impugned order since has already been withdrawn by subsequent circular dated 22.06.2020, as submitted by the learned Standing Counsel for TASMAC, is hereby recorded.

(ii) eventhough it was claimed by the learned Standing Counsel for TASMAC that subsequent show cause notice has been issued, since the learned counsel for the petitioner has denied the same, in order to resolve the said controversy, this Court feels that the respondent TASMAC shall send a copy of the subsequent show cause notice to the petitioner. On receipt of the same, the petitioner shall give his reply within 15 days from the date of receipt of such show cause notice and after receipt of the explanation



to be submitted in this regard by the petitioner, on consideration of the same, further order shall be passed by the respondent TASMAL.

11. With the above observations and directions, this Writ Petition is ordered accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmk

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

1. The Senior Divisional Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAL),
Madurai.
2. The Deputy Collector/District Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAL),
Sivagangai.

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