



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.23117 of 2019

(Through the Video Conferencing)

WEB COPY

1.Sadiq Mansoor

2.Ahmed Ali

... Petitioners

Vs

1.State represented by
the Election Commissioner,
O/o. the Election Commissioner,
Nagercoil, Kanyakumari District.

2.State represented by
The District Treasury Officer,
O/o. the District Treasury Officer,
Nagercoil, Kanyakumari District.

3.The Additional Commissioner of Income Tax,
O/o. the Additional Commissioner of Income Tax,
Nagercoil Range, Nagercoil,
Kanyakumari District.

4.The Deputy Director of Income Tax (Investigation),
Income Tax Department, Income Tax Staff Quarters Buildings,
Meenambalpuram,
Madurai-620 002.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the third and fourth respondents to take adequate steps on the petitioner's representation dated 16.09.2019 and consequently direct the respondents to release the petitioners' amount of Rs.34,08,000/- (Rupees Thirty Four Lakhs Eight Thousand only) which was seized on 19.03.2019 by the respondents within a time stipulated by this Court.

For Petitioners : Mr.Venkatesan
for Mr.R.Senthil Kumar
For R-3 & R-4 : Mrs.S.Srimathy
Senior Standing Counsel

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the third and fourth respondents to consider the petitioners' representation dated 16.09.2019, requesting the



respondents to release the petitioners' amount to the tune of Rs.34,08,000/- (Rupees Thirty Four Lakhs Eight Thousand only), which was seized by them on 19.03.2019.

2. It is the case of the petitioners that their agent was carrying their cash to the tune of Rs.34,08,000/- on 19.03.2019 which was meant for purchasing a property. According to them, the cash has been fully accounted and they never used the said money for election purpose. However, according to the petitioners, the first respondent arbitrarily and illegally seized the cash from their agent on 19.03.2019 and the same was handed over to the second respondent.

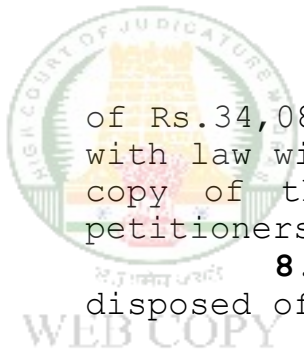
3. It is also the case of the petitioners that the fourth respondent summoned them for enquiry on 20.03.2019. It is also their case that the petitioners and their agent both appeared for enquiry and also submitted their explanation before the third respondent. Thereafter, since no final orders are passed, the petitioners have given a representation to the third respondent on 16.09.2019. According to the petitioners, the said representation was forwarded to the fourth respondent by the third respondent by their letter dated 10.10.2019. According to the petitioners, till date, no final orders have been passed in the representation given by the petitioners seeking for return of the seized cash. In such circumstances, this Writ Petition has been filed.

4. Heard Mr.Venkatesan, learned counsel, representing Mr.R.Senthil Kumar, learned counsel for the petitioners and Mrs.S.Srimathy, learned Senior Standing Counsel for the respondents 3 and 4.

5. No positive direction can be issued by this Court. It is for the respondents to consider the petitioners' representation seeking for return of the seized cash which according to them has been seized arbitrarily and illegally as the said cash has been duly accounted by them.

6. As seen from the affidavit filed in support of the Writ Petition, the third respondent has called the petitioners for enquiry, but, till date, no final orders have been passed. The petitioners have also given a representation on 16.09.2019 requesting the fourth respondent to return the seized cash. Admittedly, the said representation has not been considered till date. No prejudice will be caused to the respondents if the representation of the petitioner is considered by the respondents on merits and in accordance with law.

7. For the foregoing reasons, this Court directs the fourth respondent to consider the petitioners' representation dated 16.09.2019 requesting for releasing of the seized cash to the tune



of Rs.34,08,000/- and pass final orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order after providing adequate opportunity to the petitioners.

8. With the aforesaid direction, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg

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 Election Commissioner,
O/o. the Election Commissioner,
Nagercoil, Kanyakumari District.
 - 2.The District Treasury Officer,
O/o. the District Treasury Officer,
Nagercoil, Kanyakumari District.
 - 3.The Additional Commissioner of Income Tax,
O/o. the Additional Commissioner of Income Tax,
Nagercoil Range, Nagercoil,
Kanyakumari District.
 - 4.The Deputy Director of Income Tax (Investigation),
Income Tax Department, Income Tax Staff Quarters Buildings,
Meenambalpuram,
Madurai-620 002.
- + 1cc to Mr. S.SRIMATHY,Advocate, SR No.26347
+ 1cc to Mr. R.SENTHIL KUMAR,Advocate, SR No.26188

Order made in

W.P. (MD)No.23117 of 2019

Dated :

17.12.2020

SR (CO)

KK(08.01.2021) 3P 7C

<https://hcservices.ecourts.gov.in/hcservices/>