



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.03.2021**

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS. JUSTICE S.ANANTHI

W.P. (MD)No.5230 of 2021

and WMP(MD) Nos.4184 and 4189 of 2021

(Through Video Conferencing)

R.S.Nadaraja Moorthy

: Petitioner

Vs.

1.The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
St. George Fort, Chennai - 9.

2.The Director of Prosecution,
Office of the director of Prosecution,
Tamil Nadu, Slum Clearance Board,
Annexe Building 1st floor,
No.5 Kamarajar Salai, Chennai-5.

3.The District Collector,
Kanyakumari District.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorari to call for the records pertaining to G.O.(D) No.167 dated 31.01.2020 issued by the 1st respondent and quash the same.

For Petitioner : Mr.M.Ramesh

For Respondents : Mr.K.P.Krishnadoss
Special Government Pleader

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner, who was working as a Special Public Prosecutor for POCSO cases in Kanyakumari District as per Government Order passed in G.O.(D).No.894 dated 13.08.2019, has come forward to challenge the Government order passed in G.O.Ms.No.167 Home (Courts-VI) Department dated 31.01.2020, by which, the transfer and posting of Public Prosecutors as Special Public Prosecutors to 16 special Courts for exclusive trial of the POCSO Act cases 2012 was directed to be made.



2.The learned counsel for the petitioner submitted that contrary to the order of appointment, especially, condition No.2 in Paragraph no.5 has not been complied with. The petitioner has been terminated and thereafter appointments were made for filling up the post of Special Public Prosecutors to 16 special Courts for exclusive trial of cases under POCSO Act. After passing the said order, sanction was also given to the posts. Thus, the order dated 31.01.2020 is required to be interfered with.

3. We do not find any merit in this writ petition. The Government order, which enure to the benefit of the petitioner, clearly states that his services can be terminated after one month notice. This is also a tenure post. For the reasons known, the petitioner has not challenged the order of termination dated 09.01.2020. The termination order clearly states that the said order has been passed to comply with the order of the Apex Court, as there is an element of expertise is required to deal with the POCSO cases. Now, what has been challenged is the consequential transfer and posting of the Additional Public Prosecutors. The petitioner cannot be aggrieved by the said order. He ought to have challenged the order of termination, which he did not choose to do so. Now, more than one year has elapsed. The newly appointed Special Public Prosecutors have taken charge. They have not been impleaded as party respondents. In such circumstances, this Court is not inclined to interfere with the order impugned. Accordingly, the writ petition is dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

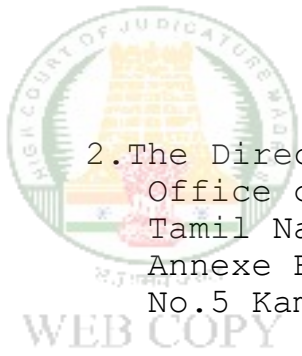
RR

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 Additional Chief Secretary to Government
Home, Prohibition and Excise Department
St. George Fort, Chennai - 9.

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



2.The Director of Prosecution,
Office of the director of Prosecution,
Tamil Nadu, Slum Clearance Board,
Annexe Building 1st floor,
No.5 Kamarajar Salai, Chennai-5.

3.The District Collector,
Kanyakumari District.

+1 CC to M/s.SPL GP (SR-10909[F] dated 12/03/2021)

Order made in
W.P. (MD)No.5230 of 2021
Dated: 11.03.2021

VB (19.03.2021) 3P 5C