



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.4790 of 2021

and W.M.P.(MD) No.3915 of 2021

(Through Video Conference)

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V.Boomiraja

...Petitioner

Vs.

1.The Managing Director,

Tamil Nadu State Marketing Corporation Ltd.,

(TASMAC), 4th Floor, CMDA Towers,

Gandhi Irwin Bridge Road,

Egmore, Chennai.

2. The Senior Regional Manager,

Tamil Nadu State Marketing Corporation Ltd.,

(TASMAC), Madurai Regional, Madurai.

3. The District Manager,

Tamil Nadu State Marketing Corporation Ltd.,

(TASMAC), Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for records of 3rd respondent pertaining to the impugned order dated 23.02.2021 vide Na.Ka.No.006/2020/A2 and quash the same.

For Petitioner : Mr.A.Arul Jenifer

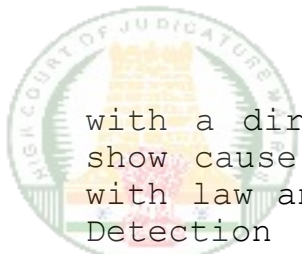
For Respondents : Mr.H.Arumugam,
Standing counsel

O R D E R

The petitioner herein, was charged of being involved of having caused loss while transporting the liquor bottles from the Tamil Nadu State Marketing Corporation Limited (TASMAC) shop to several places.

2. According to the learned standing counsel appearing for the respondents, the loss is to the tune of Rs.4,09,080/- While passing the impugned order dated 23.02.2021, the respondents had directed the petitioner to pay some amount, which includes the penalty amount also, failing which, disciplinary action will be initiated against him.

3. It is pertinent to mention here that earlier, the respondents herein had issued a similar show cause notice dated 24.06.2020 and when the same was challenged before this Court, an order came to be passed on 18.12.2020 in W.P.(MD) No.10355 of 2020



with a direction to the respondents to consider the reply to the show cause notice and to conduct a domestic enquiry in accordance with law and the procedure laid down in the Code of Prevention and Detection of Fraudulent Acts in Tamil Nadu State Marketing Corporation Limited, 2014.

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4. Contrary to the directions of this Court, the respondents have once again issued a similar notice dated 23.02.2021 by considering the objections of the petitioner alone and without conducting an enquiry and thereby imposing a penalty.

5. Code of Prevention and Detection of Fraudulent Acts in Tamil Nadu State Marketing Corporation Limited, 2014 prescribes the procedure to be adopted by the respondents during the course of investigation. As per Clause 6(e), when an employee disputes the charges or if the Management is not satisfied with the explanation, there is a mandate for them to conduct a domestic enquiry for the purpose of imposing a punishment other than censure, reprimand or warning. In the instant case, the decision of the respondents to impose the penalty would amount to a punishment imposed without conducting an enquiry. Such an order, is opposed not only to the Code but also to the directions of this Court passed in W.P.(MD) No.10355 of 2020. Consequently, the impugned order itself cannot be sustained.

6. Nevertheless, if the respondents are given a final opportunity to adhere to the procedure contemplated under Code of Prevention and Detection of Fraudulent Acts in Tamil Nadu State Marketing Corporation Limited, 2014 the ends of justice could be secured.

7. In the light of the above observation, the impugned order, dated 23.02.2021 vide Na.Ka.No.006/2020/A2 is quashed with a liberty to the respondents to conduct a domestic enquiry atleast within a period of 30 days from the date of receipt of this order. The respondents shall also complete such domestic enquiry atleast within a period of three months from the date of the first hearing.

8. With the above liberty, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected W.M.P.(MD) No.3915 of 2021 is closed.

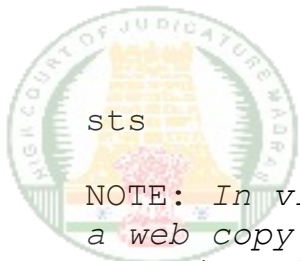
Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)



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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.

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-11382[F] dated 16/03/2021)

Order made in
W.P. (MD) No.4790 of 2021

Dated:
15.03.2021

RK (30.04.2021) 3P 2C