



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 20.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P (MD) No.14613 of 2020

and

W.M.P (MD) No.12271 of 2020

AN.Uma

... Petitioner

Vs

1.The Managing Director,
Rs.837, Sivagangai District,
Consumer Co-operative Whole Sale Store Limited,
Sivagangai.

2.The General Manager,
Rs.837, Sivagangai District,
Consumer Co-operative Whole Sale Store Limited,
Sivagangai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records pursuant to the impugned order passed by the first respondent in Na.Ka.No.63/2020/Medicine dated 25.09.2020 and quash the same and direct the respondents to appoint an independent auditor to conduct an enquiry on the allegations of misappropriation of money in the Medical shop at Karaikudi run under the respondent society.

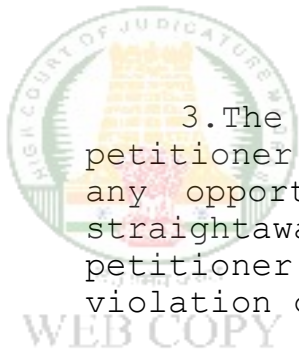
For Petitioner : Mr.S.Madhavan

For Respondents : Mr.K.Seenivasagam

ORDER

This writ petition has been filed challenging the impugned proceedings of the first respondent, in and by which, the petitioner has been directed to pay the alleged deficit amount.

2.The learned Counsel for the petitioner submits that the petitioner is working as a Sales Woman in the respondent pharmacy on temporary basis. She has discharged her duties diligently. However, the respondents stating that there was stock deficit to the tune of Rs.5,45,494.38 directed the petitioner to pay the said amount within a period of two weeks. Therefore, the petitioner is before this Court.



3.The learned Counsel for the petitioner submits that the petitioner has not involved in any illegality and without affording any opportunity of hearing and without conducting any enquiry, straightaway the respondents have imposed punishment on the petitioner. Therefore, the impugned order is liable to be quashed on violation of principles of natural justice.

4.The learned Counsel appearing for the respondents submits that the petitioner is responsible for the day to day sales of the respondent pharmacy and has to remit the sale amount on the next day. While so, stock was taken in the presence of the petitioner and it was found there was deficit of stock to the tune of Rs.5,45,494.38. The petitioner has also submitted her explanation and it was not satisfactory. Moreover, the impugned proceedings is only a show cause notice and therefore, the petitioner shall submit her explanation to the same and based on it, further course of action would be taken.

5.Heard the learned Counsel on either side and perused the materials placed on record.

6.The contention of the petitioner is that without conducting any enquiry and without even affording an opportunity of hearing, the respondents have passed the impugned proceedings. In the impugned proceedings neither there is reference about any explanation of the petitioner nor about any enquiry proceedings. It seems that the impugned proceedings have been passed fixing liability on the petitioner, as contended by the petitioner, without even affording any opportunity of hearing. Therefore, in view of the violation of principles of natural justice, the impugned order cannot be sustained in the eye of law.

7.In the light of the above, the writ petition is allowed and the impugned proceedings is set aside. The respondents are at liberty to conduct enquiry and conclude the enquiry within a period of six months from the date of receipt of a copy of this order and proceed further in accordance with law. It is needless to state that sufficient opportunity of hearing to be given to the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

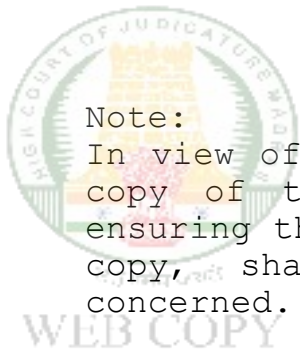
Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

dsk



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 Managing Director,
Rs.837, Sivagangai District,
Consumer Co-operative Whole Sale Store Limited,
Sivagangai.

2.The General Manager,
Rs.837, Sivagangai District,
Consumer Co-operative Whole Sale Store Limited,
Sivagangai.

+1 CC to M/s.S.SEENIVASAGAM, Advocate (SR-40087[F] dated 23/12/2021)

+1 CC to M/s.M.KARTHIKEYA VENKITACHALAPATHY, Advocate (SR-39680[F] dated 21/12/2021)

**W.P (MD) No.14613 of 2020
20.12.2021**

RK(17/03/2022) 3P 5C