



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) No.19258 of 2021

and

W.M.P. (MD) Nos.16010 and 16012 of 2021

WEB COPY

M/s.Sri Sankaranarayana Modern Rice Mill,
Rep. by its Managing Partner,
Mr.S.Sithiah,
D.No.192, G2-Tenkasi Road,
South Venganallur,
Rajapalayam, Virudhunagar District.

... Petitioner

vs.

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation,
12, Thambu Swamy Road,
Kilpauk, Chennai-600 010.

2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation (TNCSC),
Virudhunagar Region,
Virudhunagar.

3.The District Revenue Officer,
Virudhunagar District,
Virudhunagar.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the second respondent in Na.Ka.No.B1/004717/2021, dated 20.09.2021 and to quash the same as illegal and consequently directing the second respondent herein to permit the petitioner to operate the Rice Mill as "Hulling Agent" of Tamil Nadu Civil Supply Corporation for the remaining period from 06.09.2021 to 30.06.2025.

For Petitioner : Mr.D.Srinivasaragavan

For Respondents : Mr.G.Mohankumar (for R1 and R2)

Mr.S.Shanmugavel
Additional Government Pleader
(for R3)



O R D E R

Heard the learned counsel for the petitioner. Mr.G.Mohankumar, learned counsel, takes notice for the first and second respondents and Mr.S.Shamugavel, learned Additional Government Pleader, takes notice for the third respondent.

2.The Writ Petition has been filed in the nature of Writ of Certiorarified Mandamus, seeking records of an order, dated 20.09.2021, passed by the second respondent/Regional Manager, Tamil Nadu Civil Supplies Corporation, Virudhunagar Region, Virudhunagar District and to set aside the same and further to direct the said respondent to permit the petitioner to operate the 'Rice Mill' as a "Hulling Agent" of Tamil Nadu Civil Supply Corporation for the remaining period from September, 2021 to June, 2025.

3.The deponent of the affidavit is the Managing Partner of Sri Sankaranarayana Modern Rice Mill at Rajapalayam in Virudhunagar District. The petitioner is a hulling agent. They are given paddy with the husk and their work is to remove the husk and thereafter, to resupply it back to the respondent for distribution to the general public. Whenever the second respondent supplies such paddy with husk, it is accepted that they would also weigh it, examine the quality, pack it in their own bags and supply it to hulling agents like the petitioner. During the course of de-husking the paddy, the petitioner is expected to keep the paddy which has arrived inside the factory, then de-husk the same, remove the husk and thereafter, return back the paddy. If there is any movement of paddy received by the petitioner outside, an impression will naturally be taken that they have taken away a portion for private distributorship.

4.I hope that is not the situation in this case. But that is the suspicion which is the second respondent had as against the petitioner. Therefore, a show cause notice was issued to the petitioner calling for explanation. The petitioner gave an explanation claiming that the paddy, which they received, was damaged and they had suspicion about the weight and therefore, they had taken it outside the de-husking factory, for being weighed once again. After, it was weighed and when it was being brought back to the factory of the petitioner, the second respondent had seized the paddy and had levelled a charge that the petitioner had misappropriated paddies forwarded for de-husking and had therefore issued a show cause notice. The explanation given by the petitioner should be considered either way by the second respondent before passing any order adverse to the interest of the petitioner, particularly, adverse to the extent that the petitioner could not function as a hulling agent in the future.



When such an order is passed, naturally an obligation is placed on the second respondent to examine all the facts, to invite the petitioner for an explanation and thereafter, pass a considered order.

5.I am invited to the impugned order, which has been passed and it is stated by the learned counsel for the petitioner that the explanation given has not been considered at all. It would only be appropriate that the second respondent once again applies his mind to the facts of the case, examines the nature of the allegations in the show cause notice, examines the explanation given and if required, also call upon the petitioner to give necessary representation in writing and given oral statement, produce documents for such transport of paddy from the factory of the petitioner to the weighing machine and backwards, give details of such transport vehicle and thereafter, pass an order. Since the order impugned does not contain all these reasons, it would only be appropriate that the order is set aside and an opportunity is given to the second respondent to revisit the entire facts and pass an order on merits by following due process of law, taking into consideration the principles of natural justice.

6.In view of the above reasoning, the writ petition is allowed and the order impugned is set aside. However, the second respondent is directed to once again re-examine the entire issue in the manner aforesaid and pass a considered order on or before 15.01.2022.

7.With the above observations, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sjj

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,
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2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation (TNCSC),
Virudhunagar Region,
Virudhunagar.

3.The District Revenue Officer,
Virudhunagar District,
Virudhunagar.

+1 CC to M/s.G.MOHANKUMAR, Advocate (SR-38236[F] dated
10/12/2021)

+1 CC to M/s.D.SRINIVASARAGAVAN, Advocate (SR-38176[F] dated
10/12/2021)

W.P. (MD) No.19258 of 2021
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