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Writ Petition No.36710 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 4/11/2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Writ Petition No.36710 of 2016

a n d

W.M.P.No.31553 of 2016

Jan Heavy Driving School
rep. By its Proprietor
Mr.H.Ravik Jan
Near Shri Balaji Petrol Bunk
DNC Vijay Mahal (opp)
Dharmapuri 636 701

...

Petitioner

Vs

1. The Managing Director
Tamil Nadu Adi Dravidar Housing and
Development Corporation
No.31 Cenotaph Road, II Lane
Teynampet
Chennai 600 018.

2. The District Manager
TAHDCO
Dharmapuri 636 701.

3. The Regional Transport Authority/
District Collector
Dharmapuri District
Dharmapuri.

...

Respondents



Writ Petition No.36710 of 2016

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the entire records connected with the impugned order passed by the first respondent in the order of Proceedings Se.Mu.A.N.T.3/3685/2015 dated 20/9/2016 and quash the same.

For Petitioner	...	Mr.S.Sathia Chandran
For respondents	...	Mr.M.Muthusamy Government Advocate for R.R.1 and 2 Mr.P.Sathish Additional Government Pleader for R.3.

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ORDER

This writ petition has been filed to quash the impugned order dated 20/9/2016 passed by the first respondent in the order of Proceedings Se.Mu.A.N.T.3/3685/2015 dated 20/9/2016 and quash the same.

2. Brief facts leading to filing of this writ petition are as follows:-

The writ petitioner is running a driving school from 1994 and his License number is 01/DPI/1994, issued by the Licensing Authority/RTO. The first respondent had called for an application from driving Schools to provide training to persons belonging to Scheduled Tribes. Accordingly, the petitioner was offered to train 20 ST candidates each under Light Motor Vehicle Course and Heavy Motor Vehicle Course. Hence, the petitioner had



paid a sum of Rs.11,400/- as security deposit and Rs.5,000/- as Earnest Money Deposit by way of two separate Demand Drafts and applied for the same. The work order was also issued by the first respondent in his Proceedings, dated 30/10/2015.

3. Subsequently, on 15/12/2015, two Agreements in respect of the same were entered into between the petitioner and first respondent. As the office of the second respondent was not being officiated by a regular Officer from January 2016 to July 2016 in order to select the eligible beneficiary students for the driving training, the students were not allotted to the petitioner.

4. All of a sudden, the petitioner had received an order, dated 20/9/2016, passed by the first respondent, stating that as the second respondent had addressed him a letter, dated 13/8/2016, wherein the third respondent had recommended for blacklisting the petitioner's driving School, as the criminal case in Crime No.61 of 2013 is pending for trial. Pursuant to the same, the first respondent had passed the impugned order, dated 20/9/2016.



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5. Being aggrieved, the petitioner has come forward with the present writ petition praying for the relief as stated therein.

6. Heard Mr.S.Sathia Chandran, learned counsel for the petitioner, Mr.M.Muthusamy, learned Government Advocate for the respondents 1 and 2 and Mr.P.Sathish, learned Additional Government Pleader for the third respondent.

7. The learned counsel appearing for the petitioner submitted that R.T.O., Dharmapuri, by his Proceedings, dated 8/1/2015 had specifically issued No Objection Certificate, in favour of the petitioner's driving School. Without any valid legal justification, licence was cancelled. Challenging the order of suspension of the petitioner's Driving School license, the petitioner had filed W.P.Nos.9989 and 9990 of 2014. Vide, order, dated 21/8/2014, this Court had allowed the writ petitions.

8. The learned counsel appearing for the petitioner further submitted that merely on the basis of the recommendation of the second respondent, based on the First Information Report, without giving any opportunity to the



petitioner, impugned order has been passed and hence sought to quash the same.

9. Though counter is not filed, learned counsel appearing for the third respondent submitted that the petitioner is involved in a criminal case and the First Information Report has been filed and the same has now been culminated into final report, in C.C.No.71 of 2020, pending on the file of the learned Judicial Magistrate No.2, Dharmapuri.

10. Perused the materials available on record.

11. It is not in dispute that the petitioner was originally granted license to run the driving licence by Regional Transport Authority. The First Information Report came to be filed in F.I.R.No.61 of 2013 for the alleged fabrication of certain records along with others, for the purpose of obtaining driving license. Pursuant to the same, license has been cancelled which has been challenged in W.P.Nos.9989 and 9990 of 2014. This Court, by a common order, dated 21/8/2014 has set aside the orders, suspending the driving school license, holding that there cannot be an order, suspending the license of the driving school, on the basis of the criminal complaint, for the



period upto disposal of the criminal case. When the petitioner was holding a license, first respondent had entered into a contract to avail his service to provide training to the students belonging to Scheduled Tribe community and necessary deposits were also received from the petitioner.

12. Based on the letter addressed by the second and third respondents, the first respondent has passed an impugned order not only in cancelling the contract but also forfeiting the amounts deposited by the petitioner. A perusal of the impugned order, dated 20/9/2016, would clearly indicate that only on the basis of some letters from the second respondent, order has been passed forfeiting the EMD at Rs.11,400/-, as Security Deposit and Rs.5,000/- as Earnest Money Deposit. The impugned order itself would indicate that no notice whatsoever was served on the petitioner before passing an order particularly forfeiting the amount paid by the petitioner. Therefore, in the absence of fair opportunity to the petitioner, the order suffers from infirmity and violates the principles of natural justice.

13. Accordingly, this writ petition is allowed and the order passed by the first respondent, dated 20/9/2016, passed in Se.Mu.A.N.T.3/3685/2015, is quashed.



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14. Now the learned counsel appearing for the first respondent submitted that the scheme for giving a training is not available with the first respondent, at present. The same is recorded.

15. In such a view of the matter, when there is no scheme, the petitioner cannot insist for the contract. At the most, he is entitled for refund of his money. The first respondent is directed to refund the amount of Rs.16,400/- (Rupees Sixteen thousand four hundred only) received from the petitioner, within a period of three months from today.

No costs. Consequently, the connected Miscellaneous Petition is closed.

9/11/2022

Index : Yes / No

Internet: Yes

Speaking/non speaking order

mvs.



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N. SATHISH KUMAR, J

mvs.

To

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