



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2022

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THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. (MD) No. 904 of 2021

and

W.M.P. (MD) No. 765 of 2021

WEB COPY

M.Savarimuthu

... Petitioner

Vs.

The Commissioner,
Madurai Corporation,
Madurai.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for records relating to the proceedings of the respondent made in MaNe.10/22721/2016 dated 14.12.2018 and the consequential order made in MaNe.10/22721/2016 dated 18.12.2020 and quash the same.

For Petitioner : Mr.S.Satheesh Kumar
For Respondents : Mr.T.S.Mohamed Mohideen

O R D E R

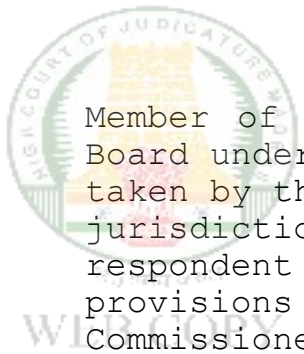
The relief sought for in the present Writ Petition is to quash the proceedings of the respondent dated 14.12.2018 and the subsequent order dated 18.12.2020.

2. The petitioner was working as Bill Collector in Madurai Corporation. On account of certain irregularities, the charge memo was issued against the writ petitioner and after completing the disciplinary proceedings, he was imposed with recovery in proceedings dated 14.12.2018.

3. The grievances of the writ petitioner is that challenging the order of recovery, he preferred an appeal to the Board in accordance with the provisions of the Chennai City Municipal Corporation Act, 1919. However, the appeal filed by the petitioner was decided by the Commissioner of Madurai Corporation, who is incompetent to deal with the appeal under the provisions of the Act.

4. The learned counsel appearing for the respondents objected by stating that the Commissioner is also a Member of the Board and therefore, there is no infirmity as such.

5. This Court is of the considered opinion that the Member of the Board cannot be construed as Board. The very interpretation offered by the learned counsel for the respondent is observed. The Board under the Act means the Committee constituted in consonance with the provisions of the Act. The Commissioner may be one of the



Member of the Board. However, a single Member cannot constitute a Board under the provisions of the Act. Thus, the unilateral decision taken by the Commissioner assuming the power of the Board is without jurisdiction and therefore, the appellate order passed by the respondent in proceedings dated 18.12.2020 is in violation of the provisions of the Act and beyond the scope of the Authority of the Commissioner. Even in case the Board is not constituted or the Board is not functioning, the Commissioner cannot decide individually and the appeal is to be returned or to be placed before the Board. Contrarily, the Commissioner cannot decide the appeal in violation of the provisions of the Act and Rules.

6. This being the factum, this Court is of the considered opinion that the appellate order passed by the Commissioner is infirmed and consequential order passed by the respondent in proceedings MaNe.10/22721/2016 dated 18.12.2020 is quashed and the respondent is directed to place the appeal before the Competent Board for taking the decision.

7. Accordingly, this Writ Petition stands allowed in part. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-I)

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/ /2022

Sub Assistant Registrar(CS)

vji

To

The Commissioner,
Madurai Corporation, Madurai.

+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate (SR-11329[F] dated 10/03/2022)

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