BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.02.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

W.P.[MD]No.2925 of 2022

and

W.M.P.[MD]No.2557 & 2558 of 2022

R.Ahamed Jalal ... Petitioner

/Vs./

1.The Ombudsman,
O/o. Tamil Nadu Local Bodies Ombudsman,
No.100, Anna Salai,
Guindy, Chennai -32.

2.The Commissioner,
Ramanathapuram Municipality,
Ramanathapuram,
Ramanathapuram District.

3.R.Shakila Banu ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pertaining to the impugned order passed by the 1^{st} respondent vide No.77/Na/2021 dated 23.12.2021 and quash the same as illegal.

For Petitioner	:	Mr.D.Balamurugapandi
For R-1	:	Mr.M.Lingadurai Special Government Pleader
For R-2	:	Mr.A.Kannan Standing Counsel

ORDER

This writ petition has been filed challenging the order dated 23.12.2021 passed by the first respondent on the ground that without affording any opportunity to the petitioner with regard to a complaint given by the third respondent seeking for cancellation of tax assessment for the subject property.

2.The Ombudsman, namely the first respondent herein has observed that the tax assessment granted in favour of the petitioner for the subject property is illegal and has initiated action against the second respondent, who has made tax assessment in favour of the petitioner. The petitioner has also received a notice dated 21.01.2022 from the second respondent, pursuant to the order dated 23.12.2021 passed by the first respondent.

3.The petitioner has challenged the order of the first respondent dated 23.12.2021 on the ground of violation of principles of natural justice. He has contended that he is in possession of the subject property eversince the year 2000 and the tax assessment has also been made in his favour since then.

4.However, according to him, based on a false complaint lodged by the third respondent, who is the sister of the petitioner, before the first respondent, the impugned order dated 23.12.2021 has been passed observing that the tax assessment for the subject property granted in favour of the petitioner is illegal and the first respondent has taken action against the second respondent Municipality.

5.With regard to the request made by the first respondent, enquiry proceedings has been initiated by the second respondent and the petitioner has received a notice in the said enquiry proceedings dated 21.01.2022. The petitioner is aggrieved by the same.

6.Heard Mr.D.Balamurugapandi, learned counsel for the petitioner, Mr.M.Lingadurai, learned Special Government Pleader, who accepts notice on behalf of the first respondent and Mr.A.Kannan, learned Standing Counsel for the second respondent.

7.Admittedly, no final orders have been passed by the second respondent, with regard to the observations made against the petitioner by the first respondent in the impugned order dated 23.12.2021. Based on the observations recorded in the order dated 23.12.2021 passed by the first respondent, an enquiry proceedings has been initiated and the petitioner has received a notice dated 21.01.2022 from the second respondent.

8.In the said enquiry proceedings, admittedly, no final orders have been passed and the petitioner has only been called upon to attend the enquiry on 24.01.2022 at 03.30 pm. The petitioner can very well give his explanation and objections, to the observations made against him in the impugned order dated 23.12.2021 passed by the first respondent.

9.This Court is of the considered view that prematurely, the petitioner has approached this Court under Article 226 of the Constitution of India, instead of participating in the enquiry and submitting his explanation, with regard to the observations recorded against him in the order dated 23.12.2021 passed by the first respondent. Therefore, the writ petition at this stage is not maintainable.

10.However, the petitioner's grievances stated in the affidavit filed in support of this writ petition have to be necessarily considered by the second respondent in the enquiry proceedings, which has already been commenced. Therefore, this Writ Petition is disposed of by granting liberty to the petitioner to submit his written explanation to the second respondent with regard to the observations made by the first respondent against him in the order dated 23.12.2021, in the enquiry proceedings initiated by him, as reflected in the notice of hearing dated 21.01.2022 received from the second respondent by the petitioner.

11.The petitioner is directed to submit his written explanation to the second respondent, within a period of two (2) weeks from the date of receipt of a copy of this order. On receipt of the same, the second respondent shall pass final orders with regard to the observations made against the petitioner in the order passed by the first respondent dated 23.12.2021, after affording a fair hearing to the petitioner as well as the third respondent, within a period of eight (8) weeks from the date of receipt of written explanation from the petitioner, as directed by this Court. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

NOTE: *In view of the present lock down owing to COVID-19 pandemic, 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 Ombudsman,
O/o. Tamil Nadu Local Bodies Ombudsman,
No.100, Anna Salai,
Guindy, Chennai -32.

2.The Commissioner,
Ramanathapuram Municipality,
Ramanathapuram,
Ramanathapuram District.

+1 CC to M/s.D.BALAMURUGAPANDI,Advocate(SR-6108[F] dated 15/02/2022)
+1 CC to M/s.A.KANNAN, Advocate (SR-6111[F] dated 15/02/2022)
+1 CC to M/s.SPL GP (SR-6182[F] dated 15/02/2022)

order made in
W.P.[MD]No.2925 of 2022
Dated:14.02.2022

_RS(26.02.2022) 3P 6C