



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2022

CORAM

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.4955 of 2022

and

W.M.P. (MD)Nos.4067 and 4071 of 2022

WEB COPY

R.Mallika

... Petitioner

vs.

1.The District Collector,
Tiruchirapalli.

2.The General Manager,
Tiruchirapalli District Co-operative Milk
Producers Union Limited,
Tiruchirapalli.

3.The Deputy General Manager,
Tiruchirapalli District Co-operative Milk
Producers Union Limited,
Tiruchirapalli.

... 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 relating to the impugned proceedings of the second respondent in Na.Ka.No.2100/P&I/PBLR/2022 on 02.03.2022 and quash the same as illegal and consequently, to direct the respondents to permit the petitioners vehicle bearing Registration No. TN 55 AD 2603 for transportation of Milk as per the proceedings of the second respondent dated 02.03.2022 till the completion of the tender period i.e., 31.08.2023.

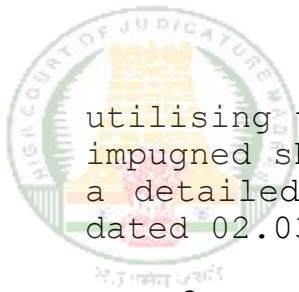
For Petitioner :Mrs.Shiva Shankari

For Respondents :Mr.P.Thilak Kumar,
Government Pleader

O R D E R

This Writ Petition has been filed challenging the show cause notice, dated 02.03.2022 issued by the second respondent. Under the said show cause notice, the second respondent has indicated to the petitioner that as to why her contract should not be terminated on the ground that the production of milk has been reduced.

2.The petitioner is a contractor for the respondents and she transports milk on behalf of the respondents in her vehicle. According to the respondents, as seen from the show cause notice, since production of milk has been reduced, there is no necessity for



utilising the service of the petitioner. In such circumstances, the impugned show cause notice has been issued. The petitioner has sent a detailed reply on 15.03.2022 to the impugned show cause notice, dated 02.03.2022.

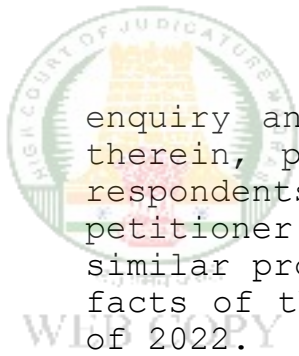
3. It is the contention of the petitioner that pursuant to a tender, the petitioner was awarded with a transport contract. Even though the transport contract is dated 20.01.2022, she was able to commence the contract only from 01.02.2022 onwards. However, within a month, the second respondent has issued the impugned show cause notice threatening to terminate the contract of the petitioner. In such circumstances, this Writ Petition has been filed challenging the impugned show cause notice.

4. Heard Mrs. Shiva Shankari, learned Counsel for the petitioner and Mr. P. Thilak Kumar, learned Government Pleader, who takes notice on behalf of the respondents.

5. Even though it is settled law that show cause notice can be challenged only if it is issued without authority under law or without jurisdiction, the instant case requires some amount of interference by this Court. The second respondent has issued the impugned show cause notice threatening to terminate the petitioner's contract, as according to them there is less production of milk and therefore, there is no necessity for the service of the petitioner. For no fault of the petitioner, the impugned show cause notice has been issued. The petitioner has sent a detailed reply on 15.03.2022 denying the contention of the second respondent. According to the petitioner, there is no reduction in the supply of milk and therefore, the petitioner's service should not be terminated.

6. No final order has been passed till date with regard to the termination of the petitioner's contract. The explanation submitted by the petitioner on 15.03.2022 has also not been considered till date on merits and in accordance with law. The petitioner has been awarded the contract only on 20.01.2022, which came into effect only from 01.02.2022 onwards. While that be so, for no fault of the petitioner, she cannot be put to loss, that too without giving her an opportunity of hearing before passing the final orders with regard to the termination of the petitioner's contract.

7. In similar circumstances, by order, dated 10.02.2022, passed in W.P.(MD)No.2762 of 2022, filed by another Writ Petitioner, which also involves supply of milk, this Court protected the interest of that petitioner till the final orders are passed pursuant to the show cause notice issued by the respondents, which was similar in nature to the one, which is the subject matter of this Writ Petition. In that case, this Court had directed the petitioner therein to send a reply to the impugned show cause notice within a period of one week from the date of receipt of a copy of that order. In the same manner, in the instant case, if the same, the respondents were directed to hold an



enquiry and after affording a personal hearing to the petitioner therein, pass final orders and till final orders are passed, the respondents were directed not to terminate the contract of the petitioner therein. This Court is of the considered view that similar protection should be granted to this petitioner also, as the facts of the present case are similar to the one in W.P.(MD)No.2762 of 2022.

8. Accordingly, this Court directs the second respondent to pass final orders on the show cause notice, dated 02.03.2022 after giving due consideration to the detailed explanation submitted by the petitioner on 15.03.2022 and after affording a fair hearing to the petitioner including granting her the right of personal hearing within a period of three months from the date of receipt of a copy of this order. Till final orders are passed, as directed by this Court today, it is made clear that the second respondent shall not terminate the contract of the petitioner.

9. With the aforesaid directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

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To

1. The District Collector, Tiruchirapalli.

2. The General Manager,
Tiruchirapalli District Co-operative Milk
Producers Union Limited, Tiruchirapalli.

3. The Deputy General Manager,
Tiruchirapalli District Co-operative Milk
Producers Union Limited, Tiruchirapalli.

+1 CC to M/s.SPL GP (SR-13494[F] dated 22/03/2022)

+1 CC to M/s.K.R.SHIVA SHANKARI, Advocate (SR-13553[F] dated 22/03/2022)

W.P. (MD)No.4955 of 2022

21.03.2022