



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2022

CORAM :

WEB COPY

THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) No.15549 of 2020 and

WMP(MD) No.13051 & 13052 of 2020

P.Kannan

Petitioner

Vs.

1.The Managing Director,
The Tamil Nadu State Marketing
Corporation Limited,
Thalaimuthu Natarajan Building, Egmore, Chennai.

2.The Chief Vigilance Officer,
Tamil Nadu State Marketing Corporation Ltd,
Thalaimuthu Natarajan Building,
Egmore, Chennai.

3.The Senior Regional Manager,
Madurai Region - TASMAC,
Madurai.

4.The District Manager,
TASMAC Thoothukudi District,
Thoothukudi.

5.Vadamalai Pandian
The District Manager
TASMAC Thoothukudi.

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the fourth respondent vide Na.Ka.No.A2/1903/2020, dated 21.10.2020 and quash the same as an illegal and devoid of merits and consequently direct the second respondent to conduct detailed enquiry with regard to the shortage of stocks based on the surprise inspection dated 24.09.2020 in TASMAC Shop No.9991 of Arumuganeri, Thoothukudi District as per the Code of Prevention and Detection of Fraudulent Act in Tamil Nadu State Marketing Corporation Ltd, 2014 (The Code).

For Petitioner
For Respondents

:Mr.Raja Karthikeyan
:Mr.B.Jameel Arasu
Standing Counsel

O R D E R

This writ petition is filed as against the notice of the fourth respondent in Na.Ka. A2903/2020, dated 21.10.2020 and for a consequential direction to the second respondent to conduct a detailed enquiry with regard to the shortage of stocks, based on the surprise inspection, dated 24.09.2020 in TASMACH Shop No.9991 of Arumuganeri, Thoothukudi District.

2.The petitioner is working as a Salesman in TASMACH Shop No.9991, Arumuganeri, Thoothukudi District. On surprise inspection conducted by the Special Team on 24.09.2020 in TASMACH Shop No.9991, they found shortage of stocks to the tune of Rs.1,74,00,000/- (Rupees One Crore Seventy Four Lakhs only). The special squad also filed a report on 28.09.2020 that there was a shortage of bottles in the shop. Therefore, the petitioner was not permitted to discharge his duties and the District Manager has conducted an enquiry on 04.10.2020. According to the learned counsel for the petitioner, the petitioner along with one Iyyappan were confined in a room and he was threatened by some unidentified persons and also directed to sign in the statement that the petitioner and the other employees of TASMACH Shop were responsible for the shortage of stocks. The grievance of the petitioner is that the fourth respondent has not conducted any enquiry in the manner known to law. However, he fixed the petitioner as responsible for the irregularities happened in the shop No.9991. Therefore, the petitioner has challenged the notice dated 21.10.2020.

3.The learned counsel appearing for the petitioner submits that as per the code of Prevention and detection of fraudulent Act in Tamil Nadu State Marketing Corporation Ltd, if any irregularities found above one lakh the same has to be referred to the Vigilance Department, as per Section 3 & 5 of the Code. The Chief Vigilance Officer is the competent authority to enquire the irregularities and report the same to the Managing Director and the Board. However, in the instant case, the procedure as contemplated has not been complied with and the petitioner is fixed as responsible for the shortage of stocks. He further submits that the petitioner is only a salesman and he is responsible for the sales and he is no way connected with the financial transactions, audit and accounts of the shop.

4.Mr.Jameel Arasu, learned Standing Counsel appearing for the respondent Corporation submits that on surprise inspection conducted by the special squad in Shop No.9991 of Arumuganeri, Thoothukudi District, it was found that huge misappropriation to the tune of Rs.1,57,95,810/- taken place in the said shop. As per Circular in Na.Ka.No.R-2/14589/2018 dated 21.01.2019, the salesmen and the supervisors in the particular shop, where misappropriation took place, held responsible. As such, enquiry was contemplated as against the petitioner, who was one of the salesmen in the said



shop and the enquiry is not yet concluded. He further submits that it is only notice, calling upon the petitioner to offer an explanation. However, the same is challenged in this writ petition.

5.This Court paid its anxious consideration to the rival submissions made and also perused the materials placed on record.

6.It is seen that on a surprise inspection conducted by the Special Team on 24.09.2020 in TASMACH Shop No.9991, they found huge shortage of stocks, for which, enquiry was contemplated as against the petitioner, as per the Circular in Na.Ka.No.R-2/14589/2018 dated 21.01.2019. Subsequently, intimation notice has been issued to the petitioner in Na.Ka.No.A2/1903/2020, dated 21.10.2020 and the same is challenged in this writ petition. It is reported that the enquiry has not been concluded. Considering the facts and circumstances of the case and also taking into account that the enquiry has not been concluded so far, there shall be a direction to the respondents to conduct a detailed enquiry, with regard to the report of the special squad and conclude the same, within a period of six months from the date of receipt of a copy of this order and the petitioner and other parties shall co-operate for the enquiry.

7.With the above directions, this writ petition is disposed of.No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vrn

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,
The Tamil Nadu State Marketing
Corporation Limited,
Thalaimuthu Natarajan Building,
Egmore, Chennai.



2.The Chief Vigilance Officer,
Tamil Nadu State Marketing Corporation Ltd,
Thalaimuthu Natarajan Building,
Egmore, Chennai.

3.The Senior Regional Manager,
Madurai Region - TASMAC,
Madurai.

4.The District Manager,
TASMAC Thoothukudi District,
Thoothukudi.

W.P(MD) No.15549 of 2020 and
WMP(MD) No.13051 & 13052 of 2020
25.01.2022

NSN(CO)
KB(03.03.2022) 4P 5C