



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

and

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A(MD)No.272 of 2018

and

C.M.P(MD)No.1628 of 2018

Thangavel,
District Differently Abled Welfare Officer,
Ramanathapuram,
Wrongly mentioned in the writ petition as
District Rehabilitation Welfare Officer,
Ramnad, Ramnad District.

[Cause title is accepted vide Court order
dated 07.02.2018 made in C.M.P(MD)No.
1136 of 2018]

.. Appellant/
3rd Respondent

Vs.

1.K.Nageswaran

.. 1st Respondent /
Petitioner

2.The District Collector,
District Collector Office,
Ramnad, Ramnad District.

3.The District Revenue officer,
D.R.O. Office,
District Collector Office,
Ramnad, Ramnad District.

.. Respondents 2 and 3/
Respondents 1 and 2

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 22.12.2017 passed in W.P(MD)No.24022 of 2017 by the learned Single Judge.

Prayer in WP(MD) . 24022/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of mandamus directing the 1st respondent herein to take appropriate action as against 3rd respondent herein for his misuse of his official power in the light of the petitioners representation dt.14/09/2017.

For Appellant	: Mr.J.Barathan
For Respondent No.1	: Mr.R.Sundar
For Respondents 2 and 3	: Mr.J.Ashok, Additional Government Pleader.



J U D G M E N T

[Delivered by PARESH UPADHYAY, J.]

Challenge in this appeal is made to the order dated 22.12.2017 recorded on W.P(MD)No.24022 of 2017. This appeal is by the original third respondent in the writ petition, who was joined in his personal capacity while he was working as District Differently-Abled Welfare Officer, who was referred as District Rehabilitation Welfare Officer by the petitioner in the writ petition.

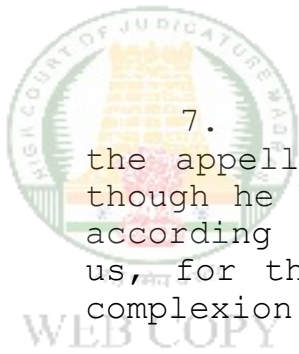
2. Learned advocate for the appellant has submitted that, on the basis of the allegations against the present appellant, who was the third respondent in the writ petition, by the impugned order dated 22.12.2017 directions are given to take strict action against him, *inter-alia* by recording *prima facie* satisfaction that it is a case for serious consideration and strict action should be taken against the present appellant.

3. We find that the present appellant is condemned unheard before recording the order against him. Record shows that, not only no opportunity was given to the third respondent, even notice was not issued on the writ petition. We find that the impugned order is unsustainable on this ground, the same therefore needs to be quashed and set aside on that count alone.

4. We note that, though learned advocate for the appellant and learned advocate for the writ petitioner have attempted to address the Court on merits, making allegations against each other and *prima facie* there is material to substantiate the case of the present appellant against the petitioner (institute), it would not be proper to pass any order against the writ petitioner in his own petition. The matter is not stretched that far.

5. Learned Additional Government Pleader for the respondents 2 and 3 has submitted that, on the complaint given by the third respondent - present appellant in his official capacity against the writ petitioner, which was part of his duty, the District Collector formed a Committee of five officers including the present appellant and some substance was found regarding irregularities committed by the writ petitioner's institute. On being asked about the stand of the State, it is submitted that the State supports the case of the appellant.

6. Learned advocate for the writ petitioner has made serious grievance that misconduct was committed by the present appellant, while he visited the institute and no interference be made by this Court.



7. During the course of hearing, grievance was also made by the appellant about the locus of the writ petitioner, saying that though he had projected himself to be the trustee of the institute, according to him he was not the office bearer at all. According to us, for the reasons recorded above, the same would not change the complexion of the matter.

8. It is noticed that, the order under challenge was already stayed by this Court vide order dated 21.02.2018 recorded by the Division Bench of this Court [Coram: Justice Mr.M.Sathyannarayanan and Justice Mrs.R.Hemalatha].

9. For the reasons recorded above, this appeal is allowed and the impugned Judgment and order is quashed and set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

smn

To

1.The District Collector,
District Collector Office,
Ramnad, Ramnad District.

2.The District Revenue officer,
D.R.O. Office,
District Collector Office,
Ramnad, Ramnad District.

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-9838[F] dated 03/03/2022)

+1 CC to M/s.R.SUNDAR, Advocate (SR-9861[F] dated 03/03/2022)

+1 CC to M/s.SPL GP (SR-9703[F] dated 03/03/2022)

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MGJ(11.03.2022) 3P 6C