



WEB COPY

W.P.(MD) No.18630 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.18630 of 2019

and

W.M.P. (MD) Nos.14992 & 18867 of 2019

N.Murugesan

... Petitioner

vs.

1.The Deputy Director of Health Services
O/o.the Deputy Director of Health Services
Sankarankovil, Tirunelveli District

2.The Deputy Director of Health Services
O/o.the Deputy Director of Health Services
Madurai, Madurai District

3.The Block Medical Officer
Government Primary Health Centre
Checkanurani, Madurai District

... 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 pertaining to the impugned order in Mu.Mu.No.754/211/2019 dated 15.04.2019 on the file of the respondent No.3 and the consequential Impugned order in Na.Ka.No.4868/R2/2019 dated 25.06.2019 on the file of the respondent No.2 and quash the same as illegal and consequently for a direction forbearing the respondents from effecting recovery from the petitioner without issuing show cause notice and in violation of the guidelines issued by the Hon'ble Supreme Court in **State of Punjab and others etc., vs. Rafiq Mah (White Washer)**, reported in **AIR 2015 C 696**.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.N.Satheesh Kumar

Additional Government Pleader

O R D E R

The order of recovery, dated 15.04.2019, passed by the third respondent, is under challenge in this writ petition.

2. The petitioner was working as Block Health Supervisor. With reference to the excess payment made to the petitioner, an objection was raised and accordingly, the impugned order of recovery was passed.

3. The learned counsel for the petitioner mainly contended



that nor show cause notice or opportunity was provided to the petitioner.

4. The learned Additional Government Pleader appearing for the respondents is unable to establish that show cause notice was issued providing an opportunity to the petitioner to defend his case.

5. Under these circumstances, the other grounds raised in this writ petition deserve no further adjudication as there is violation of principles of natural justice.

6. Accordingly, the writ petition is allowed and the impugned order dated 15.04.2019, passed by the third respondent and the consequential order dated 25.06.2019, passed by the second respondent, are quashed. The respondents are directed to issue a show cause notice setting out the details to the petitioner within a period of four weeks from the date of receipt of a copy of this order. On receipt of the show cause notice, the petitioner is directed to submit his explanation / objection along with documents, if any, within a period of two weeks thereafter. On receipt of such explanation from the petitioner, the respondent is directed to consider his case on merits and pass appropriate orders, as expeditiously as possible. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

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/ /2022

Sub Assistant Registrar(CS)

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To:

- 1.The Deputy Director of Health Services,
O/o.the Deputy Director of Health Services,
Sankarankovil, Tirunelveli District.
- 2.The Deputy Director of Health Services,
O/o.the Deputy Director of Health Services,
Madurai, Madurai District.
- 3.The Block Medical Officer,
Government Primary Health Centre,
Checkanurani, Madurai District.

+1 CC to M/s.SPL GP (SR-5969[F] dated 14/02/2022)

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TP (CO)

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WP(MD) No.18630 of 2019

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-5584[F] dated 11/02/2022

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and

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10.02.2022