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W.P.(MD)NO.20386 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.20386 of 2022 and
W.M.P.(MD)Nos.14784 & 14785 of 2022

N.Rajkumar,
Assistant Inspector General of Registration,
Madurai South Registrar Office,
Mahal, Madurai. ... Petitioner

Vs.

1. The Secretary to Government,
Department of Registration and Commercial Taxes,
St.George Fort, Chennai.
2. The Inspector General of Registrations,
O/o.The Inspector General of Registrations,
100, Santhome Road, Pattinampakkam,
Chennai – 28.
3. The Deputy Inspector General of Registration,
Madurai Region,
Rajagambeeram, Othakadai,
Madurai. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining the impugned order of the 1st respondent in GO (D) No.200 dated 21.12.2021 and quash the same and consequently directing the respondents to give all monetary benefits to the petitioner.



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For Petitioner : Mr.S.Ramsundarvijayraj

For Respondents: Mr.K.S.Selva Ganesan,
Additional Government Pleader.

* * *

ORDER

Heard the learned counsel on either side.

2. The writ petitioner is presently working as Assistant Inspector General of Registration. When he was working as District Registrar (Administration), he was issued with a communication dated 06.04.2017 from the office of the Inspector General of Registration calling upon him to revisit the complaint lodged by one Sabarunisha. According to the said Sabarunisha, one stamp vendor by name Palanisamy was indulging in fraudulent sales and that therefore action must be taken against him. She filed W.P.No.17434 of 2017. Vide order dated 10.07.2017, this Court directed the District Registrar (Administration), Rangampalayam, Erode, to implement the proceedings dated 06.04.2017 issued by the Inspector General of Registration. The complainant was constrained to file the writ petition because the earlier incumbent had closed the issue. The writ petitioner thereupon passed an order dated



4. The respondents have filed counter affidavit. The learned Additional Government Pleader appearing for the respondents took me through its contents. His primary contention is that the writ petitioner acting as District Registrar (Administration) did not comply with the direction of the Inspector General of Registration. Here is a case where complaint had been received against a stamp vendor. Enquiry was already conducted. However, the earlier District Registrar (Administration) virtually let go the stamp vendor. That led to the filing of writ petition. Even before the writ Court passed the order, the Inspector General of Registration had called upon the petitioner to re-visit the issue. In these circumstances, the petitioner ought to have revoked the stamp vendor's license. According to the learned Additional Government Pleader, Rule 25(iii) of the Tamil Nadu Stamp Rules does not provide for passing an order of suspension. Since the petitioner had not adhered to the statutory mandate, the authority was constrained to issue charge memo and also hold that the charge levelled against the petitioner stood proved. In any event, a very nominal punishment had been imposed against the petitioner and no interference is called



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5. I carefully considered the rival contentions and went through the materials on record.

6. The sequence of events is as follows:-

One Sabarunisha had given a complaint against stamp vendor Palanisamy in March and June 2016. The earlier District Registrar (Administration), Erode, had passed an order dated 06.07.2016 informing the complainant to work out her remedy before the jurisdictional civil Court. Sabarunisha thereafter lodged a complaint before the Inspector General of Registration. The Inspector General of Registration vide communication dated 06.04.2017 directed the District Registrar (Administration), Erode, to take action under Tamil Nadu Stamp Rules, since the allegation made against the stamp vendor stood established. Sabarunisha thereafter sent a reminder to the District Registrar (Administration), Erode, on 05.05.2017. She thereafter filed W.P.No.17434 of 2017. The said writ petition was disposed of on 10.07.2017 in the following terms:-



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“ 4. In view of the submissions made by the learned counsel on either side, without expressing any opinion with regard to the merits of the case, I direct the 2nd respondent to implement the proceedings dated 06.04.2017 passed by the 1st respondent, if the same has not been challenged, in accordance with law, within a period of three weeks from the date of receipt of a copy of this order. ”

7. The writ petitioner thereafter passed the order dated 10.08.2017 temporarily suspending the license of the stamp vendor. The order dated 10.08.2017 does not indicate as to whether it was meant to be final order or only a first step. The learned counsel appearing for the petitioner relying on Rule 25(iii) would rightly argue that before any adverse order is passed against the stamp vendor, the person affected must be given an opportunity. However, the order dated 10.08.2017 does not give any indication that any further action was proposed.



8. Since Sabarunisha was not satisfied with the action taken against the petitioner, she once again lodged a complaint. That led to the Inspector General of Registration to send notice to the writ petitioner. Not satisfied with the explanation given by the writ petitioner, the charge memo was issued.

9. The stand taken by the petitioner's counsel is that since he wanted to give an opportunity to the stamp vendor as contemplated under Rule 25(iii) of the Tamil Nadu Stamp Rules, he stopped with passing order of temporary suspension. This contention appears to be an after thought. The order dated 10.08.2017 is completely silent on this aspect. The petitioner's counsel would therefore claim that since the writ Court had issued a time bound order, in order to avoid lapse of time he passed the said order.

10. I endorse the stand of the petitioner's counsel that the licensing authority is possessed with the power to suspend the license. The learned Additional Government Pleader may not be right in his contention that only an order of revocation



of license can be passed. The licensing authority who has power of revocation is obviously entitled to suspend the operation of the license. But this power can be exercised only under certain circumstances. In this case, serious allegations have been made against the stamp vendor. In order to facilitate enquiry, the license can certainly be suspended. The order passed by the petitioner cannot be faulted. But it could not have been the final order.

11. I however would interfere with the impugned Government Order on another ground. The petitioner is exercising the power of quasi judicial authority in such matters. The decision taken by the quasi judicial authority can be questioned only under certain circumstances. The Hon'ble Supreme Court in the decision reported in **1993 (2) SCC 56 (Union Of India And Ors. V. K. K. Dhawan)** held as follows:-

“29. ... Thus we conclude that the disciplinary action can be taken in the following cases:

i) Where the officer had acted in a



manner as would reflect on his reputation for integrity or good faith or devotion to duty;

ii) if there is prima facie material to show recklessness or misconduct in the discharge of his duty;

iii) if he has acted in a manner which is unbecoming of the government servant;

iv) if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;

v) if he had acted in order to unduly favour a party;

vi) if he had been actuated by corrupt motive however, small the bribe may be because Lord Coke said long ago "though the bribe may be small, yet the fault is great."



12. In this case, the District Registrar (Administration) is the licensing authority. It is for the licensing authority to take a call as to the final order to be passed. The Inspector General of Registration could not have issued any particular direction as such. In any event, the direction could not have been issued behind the back of the stamp vendor. And it is not the case of the authority that the petitioner had taken illegal gratification from the stamp vendor and passed the order in question. The order of suspension was in operation when the Inspector General of Registration issued notice to the petitioner. I can understand if the petitioner had passed a suspension order and then recalled it. That was not the case here. It is possible that the petitioner herein would have thought of taking the next step after the stamp vendor responded to the suspension order. I am therefore satisfied that exercise of quasi judicial power in the aforesaid circumstances could not have been the subject matter of disciplinary proceedings. In this view of the matter, the order impugned in this writ petition deserves interference and it is



accordingly set aside. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

29.11.2022

Index : Yes / No
Internet : Yes/ No

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To:

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Department of Registration and Commercial Taxes,
St.George Fort, Chennai.
2. The Inspector General of Registrations,
O/o.The Inspector General of Registrations,
100, Santhome Road, Pattinampakkam,
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12

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G.R.SWAMINATHAN,J.

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