



WEB COPY

W.P.(MD)No.12482 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.12482 of 2014

and

W.M.P. (MD)Nos.6021 & 1643 of 2016

and

M.P. (MD)No.1 of 2014

The President,
A1171 Aillinagarm Primary Agricultural
Co-operative Credit Society Ltd.,
Allinagaram,
Periyakulam Road,
Theni District.

... Petitioner

vs

1. P.Dhandapani

2. The Appellate Authority,
Under the Shops & Establishment Act, 1947,
Dindigul.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned proceedings in க.நி.சு மேல்முறையீட்டு எண் 10/2012 dated 13.05.2013 of the second respondent and quash the same as illegal.

For Petitioner : Mr.D.Murugananthan

For Respondents : Mr.Chammundi Bose for R1
for M/S.Kara Associates

Mrs.D.Farjana Ghoushia for R2
Special Government Pleader

O R D E R

This writ petition is filed challenging the order passed in the appeal No.10 of 2012, dated 13.05.2013.

2. The first respondent is working as Salesman in the Kerosene Bunk which is running under the petitioner's Society. On 05.11.2011, the Inspector of Police C.B.C.I.D intercepted the Tanker Lorry bearing Registration No.TN67C-2288 and found that 3400 Liters of Kerosene was illicitly taken away through the said Tanker Lorry. The FIR was registered in Crime.No.407 of 2011 for the offence

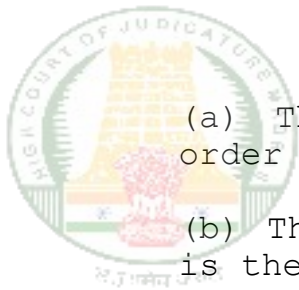


punishable under Sections 17, 18 TNK (RT) Order 1973 and 6(2)(3) of TNSC (RDCS) Order 1987 r/w 7(1) a(ii) 7 EC Act 1958. The first respondent was arrayed as an Accused No.1. The petitioner was arrested and thereafter, he was released on bail. The petitioner was placed under suspension by the Special Officer of the Society on 06.11.2011. A Charge Memo was issued on 12.07.2012. After conducting a domestic enquiry, it was held that the charges were proved. In the light of the enquiry report, the Special Officer has dismissed the first respondent from service on 09.10.2012. The said dismissal order was put to challenge by the petitioner before the second respondent and the second respondent, vide order, dated 13.05.2013 allowed the petitioner's appeal. Since the petitioner was not reinstated, the petitioner has preferred a writ petition in W.P. (MD)No.7172 of 2014 directing the petitioner's Society to implement the order. This Court, vide order, dated 26.06.2014 without expressing any opinion directed the petitioner's society to consider and pass orders. Thereafter, the petitioner's society has filed this writ petition and obtained an interim order. This Court, vide order, dated 31.07.2014 stayed the order of the second appellant authority. The first respondent has preferred a Vacate Stay petition in W.M.P.(MD)No.1643 of 2016. The second respondent has stated that this writ petition is off shoot for the order passed in W.P.(MD) No.7172 of 2014 and the impugned order was obtained behind the back of the second respondent.

3. Heard Mr.D.Muruganathan, learned Counsel appearing for the petitioner, Mrs. Chammundi Bose for M/S. Kara Associates, learned Counsel appearing for the first respondent and Mrs.D.Farjan Ghoushia, learned Special Government Pleader appearing for the second respondent.

4. The learned Counsels for the petitioner and the respondents submitted that the criminal case is still pending before the Criminal Court and the trial has not commenced. The allegation against the second respondent is that, he had illicitly taken 3400 liters of kerosene which is made for distribution for the common purpose. The petitioner's Society has quantified the amount to the tune of Rs.1,11,440/- (Rupees One Lakh Eleven Thousand Four Hundred and Forty only) and the first respondent has already deposited the said amount to the petitioner's Society. On perusal of the impugned order, it is seen that the dismissal order was set aside, however no consequential orders were passed. Now the question would be whether the second respondent is entitled to any relief or not. The petitioner's Society submitted that because of the deposit of the amount, the allegation against the petitioner cannot be set aside. The second respondent is bound to answer for the illegal activity of taking the Kerosene. Therefore, the second respondent ought to be imposed with some punishment. Taking all these into consideration, this Court is of the considered opinion that the first respondent is liable for some punishment before the reinstatement. Therefore, this

<https://hccourtrecords.org.in/e-services/> the following order:



(a) The impugned order, whereby it set aside the dismissal order against the 2nd respondent is confirmed.

(b) The petitioner is not entitled to any back wages and this is the punishment for the petitioner.

(c) The petitioner's Society is directed to reinstate the first respondent as new entrant.

5. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr

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

The Appellate Authority,
Under the Shops & Establishment Act, 1947,
Dindigul.

+1 CC to M/s.SPL GP (SR-11537[F] dated 11/03/2022)

W.P. (MD)No.12482 of 2014

10.03.2022

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