



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No. 21257 of 2021 and

W.M.P. (MD) No. 17837 of 2021

WEB COPY

Sivakumar

... Petitioner

Vs.

1. The Director,
Tamil Nadu Health Transport Department,
Chennai - 600 032.
2. The Director,
Public Health and Preventive Medicine Department,
Chennai - 600 006.
3. The Deputy Director,
Health Services Department,
Pudukkottai.
4. The District Designated Officer,
Food Safety and Drugs Administration Department,
Pudukkottai.
5. The Superintendent,
(Accounts)
Health Service Department,
Pudukkottai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for entire records pertaining to impugned order passed by the third respondent by his proceedings in Na.Ka.No.4390/A9/2019 dated 22.07.2019 and consequential order of recovery passed by the third respondent vide proceedings in Na.Ka.No.4390/A9/2019 dated 12.11.2021 and quash the same.

For Petitioner : Mr.S. Prabhu

For Respondents : Mr.D. Sadiq Raja
Additional Government Pleader

O R D E R

The petitioner is working as a Driver in the office of the Deputy Director of Health Services Department. The petitioner caused an accident of the Government vehicle and on account of the said accident, the respondents have imposed recovery unilaterally without even providing an opportunity to the writ petitioner.



2. The learned counsel appearing for the petitioner made a submission that in order to avoid a head on collision with another vehicle, the petitioner has driven the vehicle side of the road which caused an accident. Therefore, he is not responsible for the damage caused to the vehicle.

3. However, the learned Additional Government Pleader objected the said contentions, by stating that, due to rash and negligent driving, the accident occurred and the official who was travelling in the vehicle was a witness with reference to the rash and negligent driving of the petitioner. When such disputed facts are raised between the parties, an opportunity must be provided to the petitioner to defend his case in a proper manner. Therefore, a show cause notice is to be issued and the petitioner must be provided with an opportunity to defend his case and thereafter, the Competent Authority may take a decision with reference to the available documents and by considering the explanations, if any, submitted by the writ petitioner.

4. Accordingly, the order impugned passed by the third respondent vide proceedings in Na.Ka.No.4390/A9/2019 dated 22.07.2019 and the consequential order of recovery passed by the third respondent vide proceedings in Na.Ka.No.4390/A9/2019 dated 12.11.2021 are quashed and the matter is remanded back to the third respondent. Accordingly, the third respondent is directed to issue a show cause notice to the writ petitioner within a period of four weeks from the date of receipt of a copy of this order. The petitioner is at liberty to submit his explanation / defence along with the documents, if any, within a period of two weeks from the date of receipt of a copy of the show cause notice. Thereafter, the third respondent shall consider the explanations and all other relevant documents and factors and pass a speaking order on merits and in accordance with law as expeditiously as possible.

5. With these directions, this Writ Petition is allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

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To

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Chennai - 600 032.
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+1 CC to M/s.SPL GP (SR-9411[F] dated 02/03/2022)

W.P. (MD) No. 21257 of 2021

and

W.M.P. (MD) No. 17837 of 2021

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MGJ(17.03.2022) 3P 7C