



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.2726 of 2017 and

W.M.P. (MD)Nos.2256 & 2257 of 2017

WEB COPY

M.S.Sahul Hameed

... Petitioner

Vs.

1. The Commissioner,
Madurai Corporation,
Anna Maligai,
Madurai.
2. The Assistant Commissioner,
Madurai Corporation,
Anna Maligai,
Madurai.
3. The Secretary,
Simmakkal Palakadaikal Motha Viyabarikal Sangam,
No.175, North Veli Street,
Madurai.
4. Muruganantham
(R-4 is suo motu impleaded vide
Order dated 21.09.2017)

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the first respondent dated 12.01.2017 in Mava3/013920/15 and quash the same and directing the respondent to accept the petitioner's demand draft No.090491 dated 25.01.2016 and allot a shop in New Fruit Market, Mattuthavani.

For Petitioner	: Mr.G.Prabhu Rajadurai, for Mr.S.M.A.Jinnah.
For R-1 & R-2	: Mr.R.Murali
For R-3	: Mr.K.Viralinathan
For R-4	: Mr.V.Manoharan

* * *



O R D E R

Heard the learned counsel appearing for the petitioner and the learned Standing counsel appearing for respondents 1 and 2 and the learned counsel appearing for the third respondent and the learned counsel appearing for the fourth respondent.

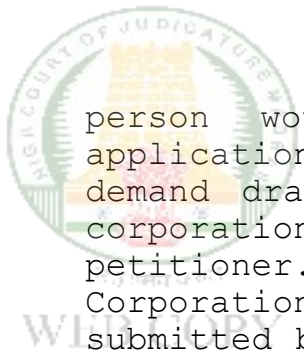
2. The issue raised in this writ petition relates to allotment of a shop in the new fruit market, Mattuthavani. Earlier the fruit market was functioning at Simmakkal. In order to ease the congestion in the heart of the city, the fruit market was shifted to Mattuthavani. There were two associations representing the fruit merchants. One was Simmakkal Palakadaikal Motha Viyabarikal Sangam and the other was Madurai Pala Commission Vanikarkal sangam. The new fruit market complex was constructed at a cost of 11.16 Crores. The aforesaid societies bore the substantial portion of the construction cost. The corporation had entered into a memorandum of understanding with both the societies. The societies were to sponsor the names of allottees.

3. There is no dispute that the writ petitioner was a member of Simmakkal Pazhakadaikal Motha Viyabarikal Sangam. His name was also sponsored. In fact his name finds place in the list of the allottees also. But due to some reasons which are not quite clear, the name of the writ petitioner did not find place in the final list of allottees. In the meanwhile, the fourth respondent Thiru.Muruganantham applied to the first respondent and an allotment was issued in his favour. That led to the filing of this present writ petition.

4. It is true that the fourth respondent Muruganantham was allotted shop No.95. I can straightaway observe that the fourth respondent was not a member of either of the societies mentioned above. The Corporation having decided to allot the shops only to the persons sponsored by the aforesaid societies, could not have made a deviation and allot a shop in favour of the fourth respondent.

5. I went through the counter affidavit filed by the fourth respondent. No where has he made any claim that he is a member of either of the societies. He has approached the first respondent and thereafter the then Mayor and based on their oral directions, he had deposited certain amounts. The allotment made in the favour of the fourth respondent by the corporation is clearly arbitrary.

6. The third respondent through counsel categorically stated that the writ petitioner was a member of their society and that his name was also sponsored by them. The reason for not including the name of the petitioner is that the petitioner had cancelled the demand draft and that is why, his name could not be included in the original list. This reason does not appear to be correct. No prudent



person would cancel the demand draft after submitting his application to his parent body. Now it is seen that the original demand draft submitted by the petitioner was very much with the corporation and the same was also later returned to the writ petitioner. The petitioner's counsel would state that since the Corporation authorities told the petitioner that the demand draft submitted by him had gone missing, he was constrained to cancel the same and replace it with a fresh demand draft. Therefore, the reason for not including the name of the petitioner in the original list is also baseless.

7. Looked at from any angle, the petitioner has made out a clear case for interference. The impugned order allotting the shop in question in favour of the fourth respondent is quashed. The Madurai Corporation is directed to allot a shop to the writ petitioner forthwith and without any delay. This writ petition stands allowed. The petitioner must of course comply with the other usual formalities. Whatever amount has been paid by the fourth respondent should be returned to him without any delay. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

PMU

To:

1. The Commissioner,
Madurai Corporation,
Anna Maligai,
Madurai.
2. The Assistant Commissioner,
Madurai Corporation,
Anna Maligai,
Madurai.

+1 CC to M/s.K.VIRALINATHAN, Advocate (SR-26035[F] dated 16/06/2022)
+1 CC to M/s.R. MURALI, Advocate (SR-26090[F] dated 16/06/2022)
+1 CC to M/s.V. MANOHARAN, Advocate (SR-26485[F] dated 17/06/2022)

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