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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.02.2023

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THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 413 of 2023

Karthikaa Ashok

... Petitioner

..Vs..

1. The Commissioner
Greater Chennai Corporation
Ripon Building
Chennai – 600 003.

2. The Deputy Commissioner
(Revenue and Finance)
Greater Chennai Corporation
Ripon Building,
Chennai -600 003.

3. The Senior Law Officer
Greater Chennai Corporation
Chennai – 600 003.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the respondents to settle the Bills claimed by the petitioner for the professional services as detailed in the petitioner representations dated 15.09.2022, 13.10.2022 respectively.



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For Petitioner

:: Mr. L.Chandra Kumar
Senior Counsel
for M/s. L.Srileka

For Respondents

:: Mr. S.Gopinathan
Panel Advocate for
Chennai Corporation

ORDER

The cause for filing this writ should never have occurred.

2. It had been filed by a practising Advocate expressing agony at the fact that though she had rendered professional service to the respondents, her professional fees had not yet been paid. She has come to Court seeking directions against the respondents to atleast give a commitment of an outer date on which they would pay her professional fees. She had given representations on 15.09.2022 and on 13.10.2022 and since there has been no effective response from the respondents, the present Writ Petition had been filed in the nature of Madamus seeking such a direction.

3. Even before proceeding further, Mr.L. Chandrakumar, learned



counsel for the petitioner had placed for consideration a Judgment of a Division Bench of this Court in ***W.A.No. 2167 of 2013 [the Chief Secretary, Secretariat, Fort St. George, Chennai and Others Vs. V.Bhavani Subbaroyan]***. By an order dated 26.03.2015, the Division Bench had an occasion to examine a similar matter nearly 8 years back and even at that time had expressed anguish and had hoped that there would be rules framed for issues like the present. The relevant paragraphs in the aforementioned Judgment of the Division Bench are as follows:-

“17. Therefore, we are of the considered view that the respondent is entitled to claim her professional fee in respect of the four pending matters only after the disposal of the said matters. As per Rule 9-A, she should share the professional fee payable under section 2(i)(c) of the High Court Fee Rules for the said matters along with the other Special Government Pleader or the Additional Government Pleader, who appeared in the matters previously or subsequently. The respondent is entitled to claim interest at the rate of 12% per annum, so far as the bills in respect of the matters which were already disposed of. The appellants are directed to pay the professional fee to the respondent along with requisite interest in respect of cases which were already disposed of, within a period of three weeks from the date of



receipt of a copy of this judgement and they are further directed to settle the professional fee of the respondent in respect of the pending suits, within a period of three months from the date of disposal of each of the civil suit. With the above modification, the writ appeal is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

18. Before parting with, we would like to add that in a matter of claim of fees, for the work done by the Law Officers of the Government, many times, we experience that they are before this Court, claiming that their fees are not paid and approaching this Court for a direction to disburse their professional fees. This kind of situation is not good for the effective functioning of officers, either during their period or even thereafter. Therefore, every Stakeholders, involved in this process, should consider this position, frame necessary Rules and Regulations in the manner, as expected. In addition to what is already available in respect of certain areas, a comprehensive Rules may be framed for this purpose by regulating every aspect of this matter. We expect the appropriate authorities to act complying with the above observation and do the needful.”



4. In the affidavit filed in support of the present Writ Petition, it had been stated that the petitioner had been appointed as a Standing Counsel in the year 2011 to appear and defend cases on behalf of the respondents. She had discharged that professional work till 2022 for a period 11 years. During the course of such discharge of professional work, it always known that she would have to appear even when called for by any Court when ever the respondents are impleaded appear either as defendants or respondents even without obtaining formal vakalat or authorisation. Therefore, appearance for the respondents cannot be straight jacketed in any specific form. There are various suits/writ petitions/ any other matters wherein the petitioner as counsel for the respondents, would have appeared. Even though counter affidavits would not have been filed, written instructions would have been forwarded by the officials and that would have been submitted to the Courts and on that basis, orders would have been passed. The assistance of the petitioner would have been crucial to pass orders.

5. I must state that even I have passed several orders on the basis



of such written instructions and on the assistance provided by the panel / Government Counsels. To get those written instructions, every counsel will have to do the necessary prodding, examination of files and interaction with the officials to discuss and analyse the nature of instructions to be given for the Court to pass orders. The matters are disposed only with the help of counsels like the petitioner herein. They may not strictly come on record but disposal could not have been done without the assistance rendered by the petitioner or anybody else like the petitioner herein.

6. The respondents have also given a list of suits which according to them, the petitioner had appeared. It is stated by the learned counsel, who now appears for the respondents that most of the bills which are outstanding relate to civil suits on the original side.

7. It is also common knowledge that in the original side not only is there a requirement to appear in the civil suits but the thrust and the focus will always be on arguing and presenting facts in applications and in original application. The suits run for years and the only aspects, would be with respect to examination of witnesses and presenting the final argument.



However, arguing applications and original applications is the main focus and the assistance of counsels are required. In most cases, the orders therein, decide the issues in the main suit itself. So even if a counsel appears in applications or in original application, effective representation has to be made addressing all the issues raised in the suit. This requires complete examination of all aspects relating to the suit.

8. I am confident that the respondents would understand these aspects and address the bills raised by the petitioner herein and honour them. Putting a professional to test with respect to the bills raised cannot be accepted and should not also be an endeavour to be done by the respondents. Any Standing Counsel for the Corporation or for any other authority, necessarily presents arguments only after obtaining instructions and more often the officials of the Corporation / authorities are present in Court and they observe for themselves the arguments presented. Therefore, even though presentation of crucial facts may not be on record in writing, still that fact cannot be dispute.

9. The fact of appearance cannot be disputed. The fact of



presenting arguments cannot be disputed. The fact that this exercise was done only to protect the interest of the respondents cannot also be disputed.

10. Therefore, I would issue a Mandamus to the respondents to consider the bills presented by the petitioner herein and honour them in the light of the directions given by the Division Bench and if any clarifications are required, obtain them from the petitioner herein but such clarification should not be done with a view to raise doubts but a view to clear the bills. Let that be the focus of the respondents herein. The said exercise by the respondents must be completed on or before 31.03.2023.

11. The Writ Petition stands disposed of. No order as to costs.

15.02.2023

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order



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C.V.KARTHIKEYAN, J.,



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