



WP No.3267 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2023

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THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

WP No.3267 of 2016

And

W.M.P.No. 2693 of 2016

Mr.M.Gandhi

... Petitioner

-Vs-

1. The Agricultural Production Commissioner and
Secretary to Government
Agricultural Department,
Fort St. George, Chennai-9.
2. The Commissioner of Agriculture
Chepauk,
Chennai-5.
3. The Deputy Director (Ni.Mo.Pa.Ni) of Agriculture
Vinayagapuram, Madurai District. ... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the Deputy Director of Agriculture in No.AA678/2001.2002 dated 22.08.2004 in ordering recovery of a sum of



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Rs.1,77,715/- and presently the same recovered from the DCRG amount of the petitioner quash the same as arbitrary and illegal and to direct the respondents to refund the amount within a stipulated time fixed by this Court.

For Petitioner : Ms.G.Sridevi

For Respondents : Mr.S.Ravi Kumar
Special Government Pleader

ORDER

Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records relating to the proceedings of the Deputy Director of Agriculture, Vinayagapuram, in AA678/2001.2002 dated 22.08.2004 in ordering recovery of a sum of Rs.1,77,715/- which had been recovered from the DCRG amount paid to the petitioner at the time when he had retired on attaining the age of superannuation.

2. The petitioner was aged 69 years at the time of filing the Writ Petition. He should now be aged for more than 75 years. He retired as Assistant Director of Agriculture from the Agricultural Department. He was



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originally posted as Assistant Agriculture Officer at Vinayagapuram at Madurai. He was relieved from that particular place from 20.11.2003 and joined the post of Assistant Director of Agriculture at Thittakudi in Cuddalore District on 28.11.2003.

3. It is stated in the affidavit that the petitioner had handed over all the articles and unsold stocks belonging to the Agricultural Department to the Executive Engineer working in the same Department at Vinayagapuram. The petitioner was asked to handover unsold stocks and other articles on 02.12.2003. The petitioner received this particular letter on 14.01.2004. The petitioner by a letter dated 20.01.2004 had giving details as to where those articles are available in the office of the Deputy Director of Agriculture (Water Management and Training Centre at Vinayagapuram). The petitioner also made several visits to his office at Vinayagapuram. Thereafter, the impugned proceedings had been passed seeking recovery of a sum of Rs.1,77,175/- by the Deputy Director of Agriculture / the third respondent, at Vinayagapuram, Madurai District.



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4. The learned counsel for the petitioner raised a grievance stating that the petitioner while handing over charge, since there was no higher official available to hand over all the unsold articles, had handed them over to the Executive Engineer. It is also contended by the learned counsel for the petitioner that the petitioner had given an explanation but he was never afforded an opportunity of personal hearing. There was also no enquiry conducted.

5. It was stated by the learned Special Government Pleader that the list of articles had not been handed over by the petitioner and thereafter, they came to the conclusion that it was the petitioner who was responsible for the said articles and that, he had not handed over the same to the successor in office and therefore, he should pay back the amount towards the costs of those articles and a sum of Rs.1,77,715/- had been directed to be deducted.



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6. The learned counsel for the petitioner stated that the entire impugned proceedings show that the respondents had already decided that it is only the petitioner and nobody else was responsible for the missing of the articles. As a matter of fact, the contention of the petitioner that the articles were already available in the office of the third respondent/ the Deputy Director of Agriculture, Vinayagapuram, was not even considered by the respondents.

7. It is contended by the learned Special Government Pleader that the petitioner had handed over a written letter wherein he had agreed that he would hand over the articles and if he is not able to do so, then he would pay the costs of the said articles. It is also contended by the learned Special Government Pleader that the petitioner had executed a bond in this regard.

8. This statement is countered by the learned counsel for the petitioner, who stated that a bond of this nature is normally received from any public servant, who retires to ensure that recoveries if required to be made are recovered. The bond is not specific to these articles.



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9. A perusal of the records shows that the respondents had proceeded further holding the petitioner alone was responsible for the non availability of the articles. There was no enquiry conducted in that regard. There was no attempt to find out whether anybody else could have been responsible for the missing or non availability of the said articles. It appears to be a pre-determined decision already made that the petitioner should be called upon to pay the costs of the missing articles and no other official from the office at Vinaygappuram. It is only appropriate that a fair hearing is given to the petitioner to put forth his case.

10. The learned counsel for the petitioner pointed out that the petitioner is Senior Citizen of advanced age, I am also deeply conscious of that fact, but it is only appropriate that the petitioner undergoes this ordeal of enquiry to clear his name. He should be given an opportunity to test the statements of the respondents and I am confident that he would participate in the enquiry in spite of his advanced age. This is all the more requisite since as on date, the issue stand over him and therefore, it would only be prudent on his part to participate in the enquiry.



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11. The proceedings issued, wherein the details of the articles which are not available, may be treated as a show cause notice and the petitioner may be given an opportunity to reply to the same. Even if the petitioner had earlier given a reply that he would pay back the amount towards the missing articles, still an additional explanation may be given by the petitioner herein. If the explanation is not found satisfactory, then necessary enquiry proceedings may be conducted in accordance with rules and regulations.

12. Full opportunity must be given to the petitioner to also summon the officials of the Agriculture Department, those who succeeded him and those, who were working in the office at the time when he was transferred. Those officials would know about the availability of the articles and the alleged missing of the said articles. Let all these facts be enquired into. Let an independent enquiry officer be appointed. The entire proceedings may be completed within a period of six months from the date on which the petitioner is issued with a fresh copy of either the proceedings already issued to him or show cause notice. From that date onwards, the



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petitioner should give an explanation within a period of three weeks and then an enquiry officer must be appointed within a further period of two weeks and then, the enquiry officer must commence and complete the enquiry within a period of six months as stated above.

13. It is informed that the amount has already been recovered. If the petitioner succeeds in the enquiry proceedings, then naturally the respondents are under obligation to return back the amount deducted from the petitioner.

14. Accordingly, the Writ Petition stand disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order



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