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W.P. No. 34059 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 34059 of 2014

and

M.P. Nos. 1 and 2 of 2014

M.Nallusamy

... Petitioner

-VS-

1. The Chairman and Managing Director,
M/s. Tamil Nadu Small Industries
Development Corporation Limited,
Thiru-vi-ka Industrial Estate,
Near SIDCO Electronics Complex,
Guindy, Chennai – 600032.

2. Branch Manager,
SIDCO – Trichy,
Industrial Estate,
Ariyamangalam,
Trichy – 620101.

Respondent

...

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the communication by the Second Respondent Branch Manager to the Petitioner dated 02.12.2014 bearing R.C. No.1/D/07 and quash the same holding it unreasonable and arbitrary.

For Petitioner : Mr. P.T.Perumal

For Respondents : Mr. S.Karthikey Balan



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ORDER

WEB COP Heard Mr. P.T.Perumal, Learned Counsel for the Petitioner and Mr. S.Karthikei Balan, Learned Counsel for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner was allotted Plot No. 80 measuring an extent of 0.521 acre situated in Industrial Estate, Elambalur by Proceedings No. 9272/F1/07 dated 22.05.2009 by the Respondents, which was handed over on 16.05.2011 to him and a lease *cum* sale agreement dated 05.05.2011 was executed between the parties.

3. The Second Respondent by Proceedings in R.C. No. 1/D/07 dated 02.12.2014 had issued the following order:-

“ *The Plot No. 80 at Industrial Estate, Elambur was allotted to you under Hire Purchase basis. You are requested to pay the Hire Purchase dues of Rs. 1,02,875/- within 15 days from the date of receipt of this letter. Failing which further action as per the allotment order condition for non payment of hire purchase dues which taken.*



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You have mentioned in your letter dated 10.12.2013 that you have started manufacture PVC Pipes and Plastic Product. But, the plot was allotted you to undertake “CATTLE FEED” manufacturing. Hence, you have to get approval for the changing in line of activity. Further during inspection of the Estate, your units was found always locked. Hence, you are requested informed the reason for keeping the unit locked.”

The said order is challenged in this Writ Petition.

4. This Court at the time of admission on 22.12.2014, granted interim stay of the impugned order subject to the condition that atleast arrears relating to principal amount shall be paid by the Petitioner, which continues to be in force till date.

5. It is evident on a perusal of the impugned order passed by the Second Respondent that it is merely a show cause notice issued to him. The consistent legal position has been reiterated by the Hon’ble Supreme Court of India in ***Union of India -vs- Kunisetty Satyanarayana*** [(2006) 12 SCC 28] that a



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charge memo or show cause notice cannot be challenged before the completion of enquiry and the proceedings cannot be interdicted till it reaches its logical conclusion. It would be useful here to extract the relevant passages from the said decision which read as follows:-

*“13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide **Executive Engineer, Bihar State Housing Board -vs- Ramdesh Kumar Singh** [JT 1995 (8) SC 331], **Special Director -vs- Mohd. Ghulam Ghouse** (AIR 2004 SC 1467), **Ulagappa -vs- Divisional Commissioner, Mysore** [2001(10) SCC 639], **State of U.P. -vs- Brahm Datt Sharma** (AIR 1987 SC 943) etc.*

14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is



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quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.”



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Having due regard to the aforesaid legal position, as there is nothing which precludes the Petitioner from raising the contentions in the Writ Petition in reply to be submitted to the Second Respondent, who is bound to deal with the same before coming to any ultimate conclusion, there is no necessity for the Court to interfere at this pre-mature stage of the matter.

6. In such circumstances, this Court without expressing any view on the merits of the controversy involved in the matter, passes the following order:-

- (i) it shall be incumbent upon the Petitioner to submit his explanation to the show-cause notice, which is impugned in this Writ Petition, if not done already, to the concerned authority within 15 days from the date of receipt of copy of this order;
- (ii) in the event of not being satisfied with the explanation submitted by the Petitioner, an enquiry shall be conducted following the prescribed procedure after affording full opportunity of personal hearing to the Petitioner to explain his position in that regard and a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgment; and
- (iii) if any adverse decision is taken, the Petitioner may pursue legal remedies



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in accordance with law.

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In the result, the Writ Petition is disposed on the aforesaid terms.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 29.05.2024.

pal/kv

To

1. The Chairman and Managing Director,
M/s. Tamil Nadu Small Industries Development Corporation Limited,
Thiru-vi-ka Industrial Estate,
Near SIDCO Electronics Complex,
Guindy, Chennai – 600032.
2. The Branch Manager,
SIDCO – Trichy,
Industrial Estate,
Ariyamangalam,
Trichy – 620010.
3. The Estate Officer,
SIDCO,
Elambalu Estate (Division),
Ariyamangalam,
Trichy – 620010.

Copy to

M.Nallusamy,



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S/o. A.Muthusamy,
Proprietor,
M/s. Nivethitha Industries,
No. 472A, Anna Nagar First Street,
Four Road, Thuraimangalam Post,
Perambalur District – 621220.



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P.D. AUDIKESAVALU, J.

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