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W.P.Nos.15687 & 13402 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.15687 & 13402 of 2017 and
W.M.P.No.16980 of 2017

D.Ananda Sam Sankar .. Petitioner in
both W.Ps

vs

1. The District Magistrate
Department of Revenue and Disaster Management
Government of Union Territory of Puducherry
Puducherry – 605 001.

2. The Registrar of Newspapers for India
Ministry of Information and Broadcasting
West Block VIII, Wing – 2, R.K.Puram
New Delhi – 110 066.

.. Respondents
in both W.Ps

Prayer in W.P.No.15687 of 2017: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records on the file of the respondents relating to the impugned order of the first respondent dated 05.05.2017 in Ref.No.5062/DM/RO/D2/2016 and quash the same;

Prayer in W.P.No.13402 of 2017: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records on the file of the respondents relating to the impugned order of the first respondent dated 03.04.2017 in Ref.No.5062/DM/ROT/TAH/D2/2016 and that of the second respondent dated 11.07.2016 ref No.32/Ceasing/16-R3 and dated 06.02.2017 in File. No.32/Ceasing/16-R3 and quash the same.



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For Petitioner in
both W.Ps : Mr.R.Saravanan

For Respondents in
both W.Ps : Mr.Rama Swamy Meyyappan
Govt. Advocate (Puducherry)
for R1

Mr.R.Rajesh Vivekanandan
Deputy Solicitor General of India
for R2

COMMON ORDER

W.P.No.13402 of 2017 is filed challenging the order passed by the first respondent dated 03.04.2017 cancelling the title of the petitioner's magazine under the Registrar of Newspapers for India.

2. During the pendency of the said writ petition, further orders were passed by the District Magistrate, Puducherry in proceedings dated 05.05.2017 which is under challenge in W.P.No.15687 of 2017.

3. The petitioner states that he is a Journalist and is in the filed of Journalism for several years with rich experience and he has been discharging his duties with utmost sense of responsibility keeping the welfare of the public in mind. The petitioner has been connected with publishing of newspapers / weekly magazines in Puducherry for more than



25 years. He started a Tamil weekly periodical namely, “Namadhu Manasatchi” to disseminate information to the public of Puducherry about the happenings in the Union Territory of Puducherry, which maybe of the public interest so as to create awareness amidst the public in respective public activities and the matters of the Government.

4. The periodical “Namadhu Manasatchi” was registered with the Registrar of Newspapers for India in accordance with the provisions of the Press and Registration of Books Act, 1967 in the year 2013. The petitioner made necessary declaration before the respondents on 27.05.2013 under the provisions of the Act. Accordingly, he was carrying on the publishing work in accordance with law. The magazine of the petitioner had very good response among the public of Puducherry and he used to unearth many informations and provide it to the public and has created awareness regarding the functioning of the printing machinery.

5. The petitioner in his magazine “Namadhu Manasatchi” edition dated 28.10.2015 – 03.11.2015, published a news item regarding the supply of decayed medicines to the patients at the Indira Gandhi Government General Hospital, Puducherry. Along with the news item, photographs of the bottles in which such decayed medicines were supplied



to the patient were also published. The news was based on actual report made by the parent of the patient, who had gone to the said hospital for treatment and found that the medicine, that was supplied for treatment, was not in proper condition.

6. A criminal case was registered against the writ petitioner at the insistence of the Health and Family Welfare Department in Crime No.231 of 2015 on the file of the Grand Bazaar Police Station for the alleged offence under Section 124(A) of the Indian Penal Code. The petitioner filed a quash petition, which was allowed by the High Court and the entire criminal proceedings initiated against the petitioner was quashed by the High Court in Crl.O.P.No.12000 of 2017 dated 13.12.2021. The petitioner has been exonerated from the criminal case and therefore, the learned counsel for the petitioner states that the impugned order cannot be sustained. The order impugned was issued on account of publication of a news column, which created serious issues in the public domain. Thus, the authorities have initiated proceedings with ulterior motive to penalise the petitioner and now, in respect of the declaration, the petitioner has followed the declaration in all respects.



Government of Puducherry raised an objection by stating that the declaration was given in the name of one Mr.L.Cyril Sagayaraj as the printer and the petitioner published his name as printer in the publication. The said publication is in violation of the provisions of the Press and Registration of Books Act, 1867 and therefore, the authorities have initiated proceedings and withdrew the declaration.

8. The magazine in this regard, no doubt, is in violation of the declaration given by the petitioner. However, such mistakes are to be construed as condonable, since the mistake has not caused any infringement of right of any other person or caused any serious prejudice to the society at large. Therefore, the mistake if any committed is condonable, then the authorities are bound to take a lenient view, however, it is for the subjective satisfaction of the authorities concerned.

9. In the present case, the petitioner has committed a mistake in wrongly publishing his name as a printer instead of the name of Mr.L.Cyril Sagayaraj, in whose name the declaration is given. This Court is of the considered opinion that the mistake committed by the petitioner cannot be construed as serious, warranting withdrawal of the declaration and therefore, the petitioner is entitled for the relief. In consequence of the



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withdrawal of the declaration, the second respondent cancelled the title itself. The said order is also under challenge in W.P.No.13402 of 2017.

10. It is to be clarified that the mistake, if any committed, condonable or uncondonable or intentional or unintentional to be determined by the competent authorities based on the facts and circumstances of each case and therefore, the findings in this regard by this Court cannot be construed as precedent for the purpose of following in any other case. Considering the fact that the petitioner has committed a mistake by printing his name as printer in his magazine instead of printing the name of Mr.L.Cyril Sagayaraj, action was initiated. The petitioner could not establish that the news item published by him in his magazine was a reason for initiation of such proceedings since a criminal case was registered against him, which was subsequently quashed by the High Court. Therefore, the nexus between the criminal action taken by the authorities and the withdrawal of declaration is to be taken into consideration with reference to the facts established in this case.

11. In view of the facts and circumstances, the order impugned in W.P.No.15687 of 2017 in Ref.No.5062/DM/RO/D2/2016 dated 05.05.2017 and the impugned orders in W.P.No.13402 of 2017 of the first



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respondent dated 03.04.2017 in Ref.No.5062/DM/ROT/TAH/D2/2016 and that of the second respondent dated 11.07.2016 in ref No.32/Ceasing/16-R3 and dated 06.02.2017 in File. No.32/Ceasing/16-R3 are quashed and the petitioner is at liberty to publish his magazine by providing a fresh declaration before the competent authority in the manner contemplated under the provisions of the Act. Accordingly, the petitioner is directed to submit a fresh declaration in accordance with the Act within a period of four weeks from the date of receipt of a copy of this order.

12. With the above directions, the writ petitions are allowed. There will be no order as to costs. Consequently, the connected miscellaneous petition is also closed.

Index : Yes/No
Neutral Citation : Yes/No

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S.M. SUBRAMANIAM, J.

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