BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.04.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5911 of 2023
and
W.M.P(MD)Nos.5495, 5496 & 5498 of 2023

P.Santhiya ... Petitioner

Vs

1.The Secretary to Government,
Commercial Taxes & Registration (A2)
Department,
Government of Tamil Nadu,
Fort St.George,
Chennai – 600 009.

2.The Joint Commissioner (ST),
Madurai Division,
Madurai District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned minor punishment order of second respondent in Na.Ka.No.2210/2021/A1-III dated 09.03.2023, quash the same and consequently direct the respondents herein upgrade the petitioner from the post of Assistant as Deputy Commercial Tax Officer pursuant to G.O.Ms.No.20 Commercial Taxes and Registration (A2) Department dated 09.03.2023.

For Petitioner : Mr.K.Appadurai

For Respondents : Mr.G.Suriyananth
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The petitioner is working as Assistant in Commercial Taxes Department. Her husband is working as Assistant Manager in State Bank of India. When the Tamil Nadu Housing Board issued advertisement for allotment of plots, the petitioner applied for the same. The Board issued communication dated 21.02.2020 informing the petitioner that she had been allotted a vacant house site plot and that the petitioner must pay initial deposit amount of Rs. 3,58,651/- (Rupees Three Lakhs Fifty Eight Thousand Six Hundred and Fifty One only) within 21 days itself. Immediately thereafter, the petitioner submitted an application dated 16.03.2020 seeking permission from the second respondent. Application was submitted through proper panel, i.e., Deputy Commissioner (ST), Madurai. The petitioner's application was forwarded on 10.03.2021. It appears that the petitioner did not hear anything further from the second respondent. The petitioner received permission only after a lapse of 34

months, i.e., on 09.03.2023. Since the allotment was likely to be cancelled, the petitioner approached the Board and paid the remaining amount and got the sale deed registered in her name on 21.08.2020.

3. Alleging that the petitioner had contravened the Conduct Rules, she had been issued with a show cause notice. The petitioner offered her explanation. Not satisfied with the same, one more notice was issued to the petitioner. Finally, the impugned order dated 09.03.2023 came to be issued imposing the punishment of censure. Challenging the same, the present writ petition came to be filed.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petitioner and called upon this Court to set aside the same and grant relief as prayed for.

5. The respondents have filed counter affidavit and the learned Additional Government Pleader took me through its contents. The stand of the respondents is that the Conduct Rules are clear and unambiguous. The Government employee is mandated to obtain prior permission before purchase of an immovable property. In this case, admittedly, the petitioner had purchased the property in question without getting prior permission. The sale

deed was executed in favour of the writ petitioner on 21.08.2020. Permission was issued in favour of the petitioner only on 09.03.2023. Therefore, the learned Additional Government Pleader appearing for the respondents would argue that the petitioner has no defence and her misconduct stood categorically established. The respondents had imposed only a very light punishment i.e., censure. Therefore, the impugned order does not call for interference. He pressed for dismissal of the writ petition.

6. I carefully considered the rival contentions and went through the materials on record.

7. The learned Additional Government Pleader is right in his contention that Government employee ought to obtain prior permission before acquiring the immovable property. In this case, the petitioner submitted her application seeking permission on 16.03.2020. The petitioner's application refers to Letter No.A3/001213/20 dated 21.02.2020 issued by the Manager - Marketing & Service, Madurai Housing Unit, TNHB. Copy of the same has also been enclosed in the typed set of papers. The said allotment letter reads that if the petitioner herein fails to make the initial deposit of Rs.3,58,651/- (Rupees Three Lakhs Fifty Eight Thousand Six Hundred and Fifty One only) within 21

days, the allotment will be automatically cancelled and the plot will be re-allotted to next eligible person based on the waiting list as per the rules in force. Therefore, there was an element of urgency. In the very nature of things, the authority was obliged to pass order on the petitioner's application expeditiously. In this case, the permission was eventually given only on 09.03.2023. Thus, there is a gap of almost three years. I cannot appreciate the delay on the part of the respondents. Having delayed without any justification, it is not open to the respondents to fault the petitioner herein.

8. It is true that the petitioner has technically committed an act of misconduct. I do endorse the stand of the learned Additional Government Pleader in this regard. The question is whether the petitioner should be punished with censure for the said misconduct. The object behind the introduction of such requirement cannot be lost sight of. The policy of the Government is to ensure integrity in public administration. The Government employees are called upon to obtain prior permission before purchasing the property only to ensure that they do not acquire asserts disproportionate to the known sources of income. The petitioner is working as Assistant in Commercial Taxes Department. Her husband is working in State Bank of India. They do not have issues. The petitioner purchased the property from Tamil Nadu Government Undertaking, namely, the Tamil Nadu Housing Board.

The purchase is not from any private party. The amount involved is less than Rs.10,00,000/- (Rupees Ten Lakhs only). Therefore, I do not find anything fishy in the transaction. The authority ought to have taken into account this aspect of the matter. In view of the following two reasons, namely:

a) transaction is free from any suspecious feature;

b) enormous and unexplained delay on the part of the authority in granting permission.

9. Even though the petitioner is technically guilty of misconduct, the punishment imposed on the petitioner is set aside. I am constrained to intervene to this limited extent only because punishment would act as impediment affecting the petitioner's promotional chances. The impugned order is interfered with to the limited extent mentioned above.

10. This writ petition is partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

13.04.2023

Index : Yes / No
Internet : Yes/ No
NCC : Yes / No
MGA

To

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G.R.SWAMINATHAN, J.

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