



W.P(MD)No.13327 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13327 of 2023

M.Chellamuthu

... Petitioner

Vs.

1.The Commissioner,
Rural Development and Panchayat Raj Department,
Chennai.

2.The District Collector,
Karur District.

3.The Block Development Officer,
Thanthondrimalai Panchayat Union,
Karur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertain to the impugned order passed by the 3rd respondent in Na.Ka.Aa3/2065/2021 dated 05.05.2023 and quash the same and consequently direct the 1st respondent to condone the delay in filing the appeal dated 29.04.2023 filed by the petitioner challenging the order of dismissal passed by the 2nd respondent in Bava6/6440/2021



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dated 31.10.2022 and to dispose of the said appeal within a time frame that may be stipulated by this Court.

For Petitioner : Mr.G.R.Satish

For Respondents : Mr.N.Ramesh Arumugam,
Govt. Advocate for R1 & R2.
Mr.D.S.Nedunchezian,
Govt. Advocate for R3.

ORDER

Heard the learned counsel on either side.

2.The petitioner was dismissed from service by the District Collector vide order dated 31.10.2022. The Appellate Authority is the Commissioner, Rural Development and Panchayat Raj Department, Chennai. The petitioner should have filed an appeal within sixty days. There was delay on his part. The petitioner had filed appeal before the first respondent. However, the third respondent has now passed the impugned order stating that since the appeal was belatedly filed, he cannot forward the same with any note. It is this order that is put to challenge in this writ petition.



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3.The petitioner has suffered an order at the hands of the second respondent. He had filed an appeal before the first respondent. It is the first respondent who has to take a call in the matter. It is not open to the third respondent to show the door to the petitioner on the ground of limittion.

4.In this view of the matter, the order impugned in this writ petition is set aside and the third respondent is directed to forward the petitioner's appeal memorandum to the first respondent. In normal circumstances, this Court would leave the matter at that. However, the learned counsel for the petitioner requested that the first respondent may be directed to condone the delay and decide the issue on merits because he may also take the view that he does not have the power to condone the delay.

5.I make it clear that the first respondent is very much having the power to condone the delay. I may indicate that in such matters, the authority can rather be liberal and decide the issue on merits.



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6. With this direction to the third respondent to forward the appeal memorandum of the petitioner to the first respondent immediately, this writ petition is allowed. No costs.

08.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

1. The Commissioner,
Rural Development and Panchayat Raj Department,
Chennai.
2. The District Collector,
Karur District.
3. The Block Development Officer,
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G.R.SWAMINATHAN, J.

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