



W.P.(MD).No.19239 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.19239 of 2023
and WMP(MD)No.15942 of 2023

J.Ummul Jamia

... Petitioner

Vs

The District Collector,
Ramanathapuram.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records from the respondent in proceedings No.Na.Ka.V5/33125/2023, dated 24.07.2023 and quash the same.

For Petitioner : Mr.Rm.Arun Swaminathan

For Respondent : Mr.N.Muthu Vijayan
Special Government Pleader



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ORDER

The present writ petition has been filed seeking a direction to quash the impugned proceedings of the respondent in No.Na.Ka.V5/33125/2023, dated 24.07.2023.

2.Heard, Mr.Rm.Arun Swaminathan, learned counsel appearing for the petitioner, Mr.N.Muthu Vijayan, learned Special Government Pleader appearing for the respondents. Perused the materials on record.

3.(i).The petitioner is presently working as Block Development Officer at R.S.Mangalam. While she was serving as Commissioner of Block Development Office, Paramakudi, one B.Chithravel and A.Arulnesan have encroached upon the Government lands, as a result of which, the jurisdictional Tahsildar had taken steps to evict the encroachments made in S.Nos.119/2C, 25, 29, 32, 33 of S.Kavanoor Village. Against the order of eviction passed by the jurisdictional Tahsildar, they preferred an appeal before the respondent. They have approached this Court by filing W.P(MD)Nos.24897 and 24931 of 2022 respectively. While so, on 02.11.2022, this Court passed an order and



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the relevant portion of the order in WP(MD)No.24897 of 2023 is extracted as follows:

“5. In view of the limited relief sought for, without expressing any opinion on the merits of the case, the first respondent is directed to dispose of the appeal dated 12.08.2022 preferred by the petitioner against the eviction notice issued by the fourth respondent, dated 03.08.2022, on merits and in accordance with law, if not already disposed of, as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order, if not already disposed of. Till the disposal of the appeal, no coercive steps shall be taken by the respondents”

The relevant portion of the order in WP(MD)No.24931 of 2023 is extracted as follows:

“5. In view of the limited relief sought for, without expressing any opinion on the merits of the case, the first respondent is directed to dispose of the appeal dated 12.08.2022 preferred by the petitioner against the eviction notice issued by the fourth respondent, dated 03.08.2022, on merits and in accordance with law, if not already disposed of, as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order. Till the disposal of the appeal, no coercive steps shall be taken by the respondents.”



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(ii) This Court has given specific direction in the aforesaid cases to the respondent to dispose of the appeal preferred by the petitioners therein, as against the eviction order passed by the jurisdictional Tahsildar, within a period of six weeks and till then no coercive steps shall be taken by the authorities. After giving ample time for the encroachers till 24.03.2023, the property in question was also surveyed by the Tahsildar with the assistance of this petitioner. The encroachments were removed, after a period of 142 days, from the date of order of this Court, dated 02.11.2022. The said exercise was done only at the instance of jurisdictional Tahsildar, vide letter, dated 03.08.2022. The petitioner was compelled to assist the jurisdictional Tahsildar in removing the aforesaid encroachments.

(iii). The respondent ought to have disposed of the appeal, within a period of six weeks as directed by this Court on 02.11.2022, so far as the appeals made by B.Chithravel and A.Arulnesan are concerned. However, not having made such exercise, the respondent proceeded to issue a charge memo, dated 24.07.2023 to the petitioner after a statutory notice has been issued by this Court on 28.06.2023 in Cont.P(MD)Nos.1184 and 1185 of 2023, in which, the respondent was directed to appear before this Court on 26.07.2023.



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Assailing the said charge memo, dated 24.07.2023, this writ petition came to be filed.

4.The learned Special Government Pleader appearing for the respondent filed a counter and submitted that the contentions of the petitioner that she had been made as scapegoat by the respondent exclusively after issuance of statutory notice by this Court in Cont.P(MD)Nos.1184 and 1185 of 2023 is absolutely false. Apart from the petitioner, the respondent has also initiated departmental action against the revenue officials, namely, Tahsildar, Zonal Deputy Tahsildar and Senior Revenue Inspector. He further submitted that on 22.08.2023, a letter was received from the Personal Assistant to Collector, Ramanathapuram, in which, it has been informed that the Senior Revenue Inspector, who was dealing with the subject has also been placed under suspension, since he failed to take action to dispose of the appeal preferred by the petitioner on 12.08.2022. In view of the same, the action taken as against the petitioner, is legally sustainable. This writ petition has been filed in a premature stage, since only a charge memo is issued as against the petitioner. Hence, he pressed for dismissal of the writ petition.



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5.Perusal of the records filed by the learned counsels appearing for both sides would reveal that the petitioner has taken necessary steps to evict the encroachments on 24.03.2023, that is further confirmed by the issuance of show cause notice, dated 14.08.2023 by the respondent to the jurisdictional Tahsildar, wherein, a specific explanation has been called for by the respondent from the aforesaid Tahsildar to explain the reason for which he had written a letter to the petitioner seeking to remove the aforesaid encroachment. It is further substantiated by the proceedings of the Personal Assistant to the District Collector, dated 22.08.2023.

6.That apart, there is a clear arbitrary and discriminatory approach by the respondent in issuing charge memo, dated 24.07.2023 as against the petitioner under 17(b) of Tamil Nadu Civil Service (Discipline & Appeal) Rules, prior to issuance of charge memo to the other officers concerned. So far as, other officers including the Zonal Deputy Tahsildar, Senior Revenue Inspector and Village Administrative Officer, show-cause notice has been issued by the respondent on the same day, seeking explanation as to why charges should not be framed against them for the same delinquency.



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7. In view of the discriminative attitude adopted by the respondent in taking disciplinary proceedings as against the petitioner and other co-delinquents, this Court hereby quash the impugned charge memo, dated 24.07.2023, vide proceedings of the respondent in Na.Ka.V5/33125/2023 and consequently remand the matter back to the file of respondent by directing the respondent to enquire the matter afresh and dispose of the same, within a period of eight (8) weeks, from the date of receipt of copy of this order, keeping in mind that the petitioner had taken steps to remove the encroachments only at the instance of the jurisdictional Tahsildar, vide his proceedings in No.A2/2830/2021, dated 15.07.2022.

8. Accordingly, this writ petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

21.09.2023

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

Note : Issue order copy on 27.09.2023

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To
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The District Collector,
Ramanathapuram.

L.VICTORIA GOWRI, J.

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