



W.P(MD)No.10896 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 26.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10896 of 2015

and

M.P.(MD)No.1 of 2015

V.Vimala Devi

... Petitioner

Vs.

The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.21, Thambusamy Road,
Kilpauk, Chennai - 10.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the orders of the respondent passed in Na.Ka.No.ME3/30849/13 dated 19.08.2014 and ME3/30849/13 dated 28.05.2015 and quash the same as illegal, consequently directing the respondent to refund the Earnest Money Deposit (EMD) and Security Deposit (SD) after deducting Rs.1,46,700/- by adopting the calculation of $489 \times 300 = \text{Rs.}1,46,700/-$ to the petitioner.

For Petitioner : Mr.T.Lenin Kumar

For Respondent : Mrs.S.Devasena



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ORDER

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Heard both sides.

2.The petitioner questions the impugned order dated 19.08.2014 whereby she has been blacklisted and the EMD amount has been forfeited. It is beyond dispute that this order was not preceded by any notice. Thereafter, the petitioner submitted a petition before the respondent for condonation her lapse and for revisiting the issue. Thereafter, the subsequent order dated 28.05.2015 was passed holding that the petitioner will be entitled to refund of Rs.1,71,321/- after deducting the loss of Rs.4,28,679/- from out of the EMD amount of Rs.6,00,000/-. The order regarding blacklisting has not been recalled or rescinded.

3.The learned counsel for the petitioner relies on the decision of the Hon'ble Supreme Court reported in **1975 (1) SCC 70 (Erusian Equipment and Chemicals Ltd. v. State of West Bengal)**. He points out that blacklisting has serious civil consequences for any contractor and it



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would amount to capital punishment. Such a punishment cannot be imposed without putting the affected party on notice. I am satisfied that in this case the impugned order was not preceded by notice. On this sole ground, the order blacklisting the petitioner is liable to be quashed.

4.Of course as regards, the issue of forfeiture, the authorities have revisited the issue. According to the respondent, on account of the petitioner's lapse, the corporation suffered loss to the tune of Rs.4,28,679/- and that the petitioner is therefore entitled to refund of Rs.1,71,321/-. The learned counsel for the petitioner rightly points out that the respondent has not furnished the details as to how the loss was quantified. I find merit in this contention of the learned counsel for the petitioner. I, therefore, set aside the impugned order. The matter is remitted to the file of the respondent. The respondent shall issue fresh notice to the petitioner and after hearing the petitioner, pass order afresh on merits and in accordance with law. The rights of the petitioner will abide by such order. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order. I make it clear that I have not gone into the merits of the matter.



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G.R.SWAMINATHAN, J.

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5.This writ petition is allowed on these terms. No costs.

Consequently, connected miscellaneous petition is closed.

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