



W.P.(MD)No.3632 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.3632 of 2016

and

W.M.P(MD)Nos.3255 of 2016 & 3213 of 2017

J.Jayson Mahesh

... Petitioner

Vs.

- 1.The Commissioner,
Civil Supplies and Consumer Protection,
Ezhilagam, Chepauk,
Chennai – 600 005.
2. The Joint Commissioner,
Civil Supplies and Consumer Protection,
Ezhilagam, Chepauk,
Chennai – 600 005.
3. The Registrar of Co-operative Societies,
N.V.Natarajan Malligai,
170, Periyar EVR High Road,
Kilpauk, Chennai – 600 010.
4. The Joint Registrar,
Vedantha Street,
Water Tank Road,



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- Nagercoil.
5. The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Kanyakumari District,
Konam, Nagercoil-4.
 6. The District Supply Officer,
Collectorate, Nagercoil.
 7. The Taluk Supply Officer,
Agasteeswaram Taluk,
Collectorate Campus,
Nagercoil.
 8. The Special Revenue Inspector,
Agasteeswaram Taluk,
Collectorate Campus, Nagercoil.
 9. The District Collector,
Kanyakumari District, Nagercoil.
 10. The District Revenue Officer,
Nagercoil.
 11. The Revenue Divisional Officer,
Nagercoil.
 12. The Tashildar,
Agasteeswaram Taluk, Naercoil.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the respondents from recovering the penalty for shortage of materials from the salesmen of fair price shops, without



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issuing show cause notice as contemplated in the order of the first respondent vide Na.Ka.No.E1/8189/11. dated 08.04.2014.

For Petitioner : Mr.C.T.Perumal

For Respondents : Mr.Ramesh Arumugam
Government Advocate

ORDER

This Writ Petition is filed *Writ of Mandamus*, forbearing the respondents from recovering the penalty for shortage of materials from the salesmen of fair price shops, without issuing show cause notice as contemplated in the order of the first respondent vide Na.Ka.No.E1/8189/11. dated 08.04.2014.

2. The petitioner is working as a Salesman in the Fair Price Shops. The respondents have conducted spot inspection and it was found some of the materials, like, rice, sugar, wheat are not available. Therefore, the respondents have directed the petitioner to pay spot fine.

3. The contention of the petitioner is that the respondents have not granted adequate opportunity to submit his explanation. However, the respondents have submitted that the respondents ought to follow the prescribed



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procedures in such occasions. While carrying spot inspection the delinquent would be granted to submit oral explanation and if it is not satisfactory then spot fines would be imposed. If the Salesman admits and pay the same, disciplinary proceedings will not be initiated. This Court is of the considered opinion that the said procedure is against the settled procedure for disciplinary proceedings. Even for oral enquiry the delinquent ought to be granted adequate opportunity. Therefore, this Court is inclined to set aside the impugned order.

4. Accordingly, the impugned order passed by the 1st respondent, vide Na.Ka.No.E1/8189/11, dated 08.04.2014 is hereby quashed. The respondents are directed to grant opportunity sufficient opportunity to the petitioner, after getting explanation from the petitioner, a speaking order shall be passed.

5. With these directions, this Writ Petition is allowed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes
ksa

09.02.2023



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S.SRIMATHY, J

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**Order made in
W.P.(MD)No.3632 of 2016**

09.02.2023