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W.P.No.19353 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

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THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.19353 of 2012

and

M.P.No.2 of 2012

S.Venkatraman

... Petitioner

VS.

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

2. The Inspector-General of Registration,
Office of Inspector-General of Registration,
Santhome,
Chennai – 600 028.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling or the records pertaining to the order of the 1st respondent in G.O.(D).No.180 CT & Registration (K) Department dated 09.05.2012, culminating in the order passed by the 2nd respondent bearing No.45599/A2/10 dated 25.02.2011 and quash the same.

For Petitioner : Mrs.G.Devi



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For Respondents : Mr.A.M.Ayyadurai
Government Advocate

ORDER

The present writ petition has been filed assailing the order of the Inspector of Registration dated 25.02.2011 awarding the punishment of stoppage of increment for a period of one year without cumulative effect.

2. The learned counsel for the petitioner would vehemently contend that the petitioner was charged vide charge memorandum dated 06.09.2010 for registration of Revocation of Settlement Deed under Document No.993 of 2010, during the pendency of the criminal proceedings.

3. It is the contention of the learned counsel for the petitioner that this petitioner has only registered the revocation of the settlement deed, whereas, the Sub Registrar who registered the settlement deed has not been prosecuted. Therefore, the learned counsel would submit that the very charge against the petitioner is nothing but fallacious one.



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4. However, the learned Government Advocate appearing on behalf of the respondents would contend that the petitioner has registered the revocation of settlement deed i.e., 'Deed of Cancellation,' under document No.993 of 2010 dated 17.03.2010 and that the said Deed of Cancellation was executed by one Mohamed Ismail, who had earlier executed the Settlement Deed dated 11.03.2010, which was registered as Document No.486 of 2010.

5. It is the further submission of the learned Government Advocate that the property covered under the Settlement Deed does not belong to the aforesaid Mohammed Ismail and hence, criminal proceedings were initiated by the original owner of the property against the said Mohammed Ismail. Therefore, in order to get over the said criminal proceedings, the said Mohammed Ismail has executed the revocation of Settlement deed and the petitioner connived with the said Mohammed Ismail and has registered the revocation of settlement deed and hence, disciplinary proceedings was initiated and ultimately, by following due procedure, a punishment was imposed against him.



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6. It is also the contention of the learned Government Advocate that while exercising the power under judicial review, the powers of this Court is only limited. This Court cannot re-appreciate the evidence as an appellate Court.

7. I have given my anxious consideration to the either side submissions.

8. It is the well settled principles of law that the writ Court while exercising the powers under Article 226 of the Constitution of India, the power of judicial review is very much restricted. It is very much pertinent to note that while exercising the power of judicial review, on re-appreciating the evidence relied by the parties, this Court cannot take a different view since because yet another view is possible.

9. From the submissions made by the learned counsel for the petitioner, there is no dispute in respect of the procedure that had been followed by the Department, in issuance of a charge memorandum and in



providing reasonable time so as to comply with the rules of natural justice and also seeking for an explanation and in imposing the punishment.

Therefore, as long as the procedure has been followed by the authority in accordance with law, the imposition of punishment cannot be interfered with. In this regard it is useful to refer to the following judgments of the Hon'ble Supreme Court.

(i). In ***B.C.Chaturvedi Vs. Union of India*** reported in (1995) 6 SCC 749, the Hon'ble Supreme Court has held as follows. The relevant paragraphs are paragraphs 12 & 18 and the same read as follows:-

“12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary



*proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. **The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.***

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*18. A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. **The High Court/Tribunal, while exercising the power of judicial review, cannot normally***



substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof.

(Emphasis supplied by this Court)

(ii). In ***Deputy General Manager (Appellate Authority) Vs. Ajai Kumar Srivastava*** reported in (2021) 2 SCC 612, the Hon'ble Supreme Court held that if the decision is against the natural justice, then the same can be interfered. The relevant paragraphs are paragraphs 25 & 29 and the same read as follows:-

“25. It is thus settled that the power of judicial review, of the Constitutional Courts, is an evaluation of the decision-making process and not the merits of the decision itself. It is to ensure fairness in treatment and not to ensure fairness of conclusion. The Court/Tribunal may interfere in the proceedings held against the delinquent if it is, in any manner, inconsistent with the Rules of natural justice or in violation of the statutory Rules prescribing the mode of enquiry or where the conclusion or finding reached by the disciplinary authority if based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached or where the conclusions upon consideration of the evidence reached by the disciplinary authority is perverse or suffers from patent error



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on the face of record or based on no evidence at all, a writ of certiorari could be issued. To sum up, the scope of judicial review cannot be extended to the examination of correctness or reasonableness of a decision of authority as a matter of fact.

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29. The Constitutional Court while exercising its jurisdiction of judicial review Under Article 226 or Article 136 of the Constitution would not interfere with the findings of fact arrived at in the departmental enquiry proceedings except in a case of malafides or perversity, i.e., where there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at that findings and so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained.”

Through the above judgments, the following principles are emerging:-

(i) Power of Judicial review is not like an appeal. But such power is meant to ensure that the individual receives fair treatment and to ensure the compliance of natural justice.

(ii) The power of judicial review is not like a appellate remedy to substitute its own finding, unless the findings of the Disciplinary Authority and Appellate Authority is perverse and without evidence.

(iii) The High Court had no jurisdiction to review the penalty, unless it is shockingly disproportionate.

(iv) Since because there is a possibility to arrive at yet another finding, cannot be a reason to substitute the finding of the disciplinary Authority.



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(v) The judicial review is meant only to ensure fairness in treatment and not to ensure fairness of conclusion.

(vi) While exercising the power of judicial review, so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained.

10. Further, according to the learned counsel for the petitioner, the only grievance of the petitioner is that the Registrar who had registered the settlement deed was not prosecuted, whereas the person who registered the revocation of settlement deed alone was prosecuted. In this regard, the learned Government Advocate would submit that the person who executed the settlement deed has no title over the property and only to get over the criminal proceedings, he has revoked the settlement deed, which was favoured by this petitioner and that is the reason why the charge has been framed against the petitioner and a punishment was imposed.

11. Therefore, in view of the above factual position, this Court is of the view that the petitioner has not made out any case for interference by this Court and the writ petition is liable to be dismissed.



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12. Accordingly, this Writ Petition stands dismissed. No costs.

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Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

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C.KUMARAPPAN, J.

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