



W.P. No.5557 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.5557 of 2024

C.Madhaiyan

... Petitioner

Vs.

1.The Sub-Collector,
Mettur,
Salem District.

2.The Tashildhar,
Mettur Taluk Office,
Mettur,
Salem District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the first respondents to pass orders on petitioner's appeal dated 04.10.2021 against the order of the second respondent in Na.Ka.1381/2021/B3 dated 23.08.2021.

For Petitioner : Mr. V. Elangovan

For Respondents : Mr. A. Selvendran,
Special Government Pleader.



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ORDER

This Writ Petition is filed seeking to issue a Writ of Mandamus directing the 1st respondents to pass orders on petitioner's appeal dated 04.10.2021, filed against the order of the 2nd respondent in Na.Ka.1381/2021/B3 dated 23.08.2021.

2. The case of the petitioner is that he had earlier made a representation before the 2nd respondent on 13.03.2007 for issuance of Patta for the land in Survey No.238/2 of an extent of 21 cents, Mecheri Village, Mettur Taluk, Salem District which, was earlier under the occupation of petitioner's father and thereafter with the petitioner for more than 40 years. Since the same was not considered, the petitioner had filed a Writ Petition in W.P.No.14137 of 2007 and this Court, by order dated 19.04.2007, directed the 2nd respondent to consider the representation of the petitioner within a period of six weeks, based on which, the 2nd



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respondent conducted enquiry. However, the 2nd respondent rejected the claim of the petitioner, by order dated 07.06.2007 on the ground that the petitioner's wife is working in a Panchayat Union School, against which, the petitioner filed a Writ Petition in W.P.No.5590 of 2008 and this Court, by order dated 18.02.2021, allowed the same and directed the respondent concerned to pass final order after giving sufficient opportunity of hearing to the petitioner. As per the order of this Court, the 2nd respondent initiated proceedings in Na.Ka.No.1381/2021/B3 but, rejected the petitioner's claim by order dated 23.08.2021, against which, the petitioner filed an appeal dated 04.10.2021 before the 1st respondent and the same is still pending. Hence, the petitioner has once again approached this Court by way of this Writ Petition.

3. Mr. A.Selvendran, learned Special Government Pleader who takes notice for the respondents, submitted that the petitioner's wife is a



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Government Servant and therefore, the petitioner's claim was rightly rejected by the 2nd respondent.

4. Heard and perused the materials available on record.

5. Since this writ petition is filed seeking to issue a simple writ of mandamus to dispose of the appeal dated 04.10.2021, this Court, without expressing any opinion with regard to the merits of the case, directs the 1st respondent to issue notice of hearing on the appeal dated 04.10.2021, to the petitioner and any other parties involved in the appeal and also to the interested parties/rival claimants/objectors if any, as the case may be and after giving opportunity of hearing to all the parties, dispose of the appeal and pass orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.



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6. With the above directions, this Writ Petition is disposed of. No costs.

7. Before parting with this case, it is to be noted that in the order of the 2nd respondent, it is stated that the wife of the petitioner is a public servant and he has referred a Government Order viz., வருவாய் மற்றும் போர்டர் மேலாண்மை துறை, நில முடிவு அலகு. நி.மு.- 1(2) பிரிவு அரசாணை (நிலை) எண்.465 நாள் -27.11.2018. Further, the letter of the Secretary to Government, Revenue Department in letter No..28725/நி.மு.1(2), நாள்.04.07.2000 has also been referred in which it has been stated that as per Rule 7 (1-A) of the Tamil Nadu Government Servants' Conduct Rules, no Government Servant shall encroach upon Government lands.

8. Therefore, this Court directs the respondents to file a report before this Court within a period of four weeks from the date of receipt of a copy



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of this order stating as to whether the 2nd respondent has referred the matter to the competent authority/appointing authority/disciplinary authority of the Department in which, the wife of the petitioner is working and whether any action has been initiated against her as per the Government Servants Conduct Rules.

9. For reporting compliance, post the matter on 28.04.2024.

05.03.2024

Index : Yes / No

Speaking Order : Yes / No

Neutral Case Citation : Yes/No

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Note: Issue Order Copy on 05.04.2024.



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To
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- 1.The Sub-Collector,
Mettur,
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- 2.The Tashildhar,
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P.VELMURUGAN. J.

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