



W.P. No. 29400 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 29400 of 2023

and

W.M.P. Nos. 29031 to 29033 of 2023

R.Ilayaalar

... Petitioner

-VS-

1. The Commissioner,
Olugaret Municipality,
Puducherry.
2. The Revenue Officer,
Olugaret Municipality,
Puducherry.
3. The Inspector of Police,
Orleanpet Police Station,
Puducherry.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records in proceedings No. 123435/OM/2023 dated 21.07.2023, passed by the Second Respondent on the direction of the First Respondent and quash the same and consequently directing the First Respondent to de-seal the premises and hand over the key to the Petitioner.



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For Petitioner : Mr. V.Balamurugane

For Respondents : Mr. M.Nirmal Kumar
Government Advocate (Puducherry)
(for R1 & R2)

Mr. R.Sreedhar
Additional Public Prosecutor (Puducherry)
(for R3)

ORDER

Heard Mr. V.Balamurugane, Learned Counsel for the Petitioner, Mr. M.Nirmal Kumar, Government Advocate (Puducherry) appearing for the First and Second Respondents and Mr. R.Sreedhar, Learned Additional Public Prosecutor (Puducherry) appearing for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner had been granted licence No. 2036000608/OM/2022-23 dated 06.07.2022 under Section 355 of the Pondicherry Municipalities Act, 1973, for running a lodge at Door No. 27, 2nd & 3rd Floor, 100 Feet Road, Sundarraaj Nagar, Puducherry, 605005 under the name of M/s J.J. Residency. The Second Respondent by Proceedings No. 12345/OM/2023 dated 21.07.2023 had passed the following order:-



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“ Under the instruction of the Commissioner, Oulgarat

Municipality and on the basis of the case in Cr. No. 173/2023

u/s 354-C, 204 IPC & 66(E), 67(A) of information Technology

Act, 2000 read with 341 IPC registered by the Sub-Inspector of

Police, Orleanpet Police Station, Pondicherry against

M/s. J.J.Residency, No. 27, 2nd & 3rd floor, 100 feet Road,

sundaraj Nagar, Pondicherry – 605 005 for illegal activities of

placing a hidden camera in the room no. 204 power plug hole

with intention to capture the woman engaging in a private

action, the said J.J. Residency is put on lock and seal on

21.07.2023 at 5.30 PM by the Revenue Officer, Oulgarat

Municipality in the presence of Inspector and Sub-Inspector of

Police.”

The said order is challenged in this Writ Petition.

3. It has been brought to notice that in furtherance to the said order, show cause notice in No. 42-20736/OM/Revenue/11/2021 dated 18.12.2023 has been issued by the First Respondent for which reply dated 21.12.2023 has been received from the Petitioner by the First Respondent.



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4. The consistent legal position has been reiterated by the Hon'ble Supreme Court of India in ***Union of India -vs- Kunisetty Satyanarayana*** [(2006) 12 SCC 28] that a charge memo or show cause notice cannot be challenged before the completion of enquiry and the proceedings cannot be interdicted till it reaches its logical conclusion. It would be useful here to extract the relevant passages from the said decision which read as follows:-

*“13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide **Executive Engineer, Bihar State Housing Board -vs- Ramdesh Kumar Singh** [JT 1995 (8) SC 331], **Special Director -vs- Mohd. Ghulam Ghouse** (AIR 2004 SC 1467), **Ulagappa -vs- Divisional Commissioner, Mysore** [2001(10) SCC 639], **State of U.P. -vs- Brahm Datt Sharma** (AIR 1987 SC 943) etc.*

14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been



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issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.”

Having due regard to the aforesaid legal position, as there is nothing which precludes the Petitioner from raising the contentions in the Writ Petition in the



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reply to be submitted to the First Respondent, who is bound to deal with the same before coming to any ultimate conclusion, there is no necessity for the Court to interfere at this pre-mature stage of this matter.

5. In such circumstances, this Court without expressing any view on the merits of the controversy involved in the matter, passes the following order:-

- (i) the First Respondent shall immediately consider the explanation dated 21.12.2023 submitted by the Petitioner for the show cause notice dated 18.12.2023 issued to him;
- (ii) in the event of not being satisfied with the explanation submitted by the Petitioner, an enquiry shall be conducted following the prescribed procedure after affording full opportunity of personal hearing to the Petitioner to explain his position in that regard and a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgment;
- (iii) depending upon its outcome, further action relating to removal of lock and seal in the premises shall be taken, and if any adverse decision is taken, the Petitioner may pursue legal remedies in accordance with law; and



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(iv) the report of such compliance shall be filed by 30.06.2024 before the

WEB COPY Registrar (Judicial) of this Court.

In the result, the Writ Petition is disposed on the aforesaid terms.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

13.02.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 23.02.2024.

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To

1. The Commissioner,
Olugaret Municipality,
Puducherry.
2. The Revenue Officer,
Olugaret Municipality,
Puducherry.
3. The Inspector of Police,
Orleanpet Police Station,
Puducherry.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.



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P.D. AUDIKESAVALU, J.

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