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W.P(MD)No.15936 of :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.07.2024

Delivered on : 29.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.15936 of 2021

P.Maharajothi

: Petitioner

Vs.

1.The District Collector,
Karur District, Karur 639 007.

2.The Managing Director,
Tamil Nadu Arasu Cable TV Corporation Ltd.,
Dugar Towers,
No.34(123), 6th Floor,
Marshalls Road, Egmore,
Chennai – 600 008.

3.The Special Tahsildar,
Tamil Nadu Arasu Cable TV,
Karur, Karur District.

: Respondents

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 relating to the impugned order in proceedings No.TACTV-3(I)/24817/2018, dated 02.07.2019 issued by the second respondent and quash the same as illegal and consequently, direct the second respondent to direct the third respondent and to hand over the control room of



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Arasu Cable TV Corporation and the Cable Networks laid thereon and also pay appropriate compensation for the illegal action pursuant to the order of the third respondent, dated 11.01.2012.

For Petitioner : Mr.B.Prasanna Vinoth

For Respondents : Mr.V.Om Prakash,
Government Advocate, for R1.

: Mrs.S.Devasena, for R2 and R3.

ORDER

The Writ Petition is directed against the order, dated 02.07.2019 passed by the second respondent and also for directions to the respondents 2 and 3 to hand over the control room of Arasu Cable TV Corporation and the Cable Networks laid thereon and also pay appropriate compensation for the illegal action pursuant to the order of the third respondent, dated 11.01.2012.

2. Heard the learned counsel for the petitioner, the learned Government Advocate appearing for the first respondent and the learned counsel appearing for the respondents 2 and 3.

3.The case of the petitioner is that she has been operating Multi System Operator (MSO) for Karur District since 1993; that the Cable business run by



the Multi System operators was taken over by the Arasu Cable TV Corporation in September 2011 in all 31 Districts except Chennai; that the petitioner was appointed as Multi System Operator by the Arasu Cable TV Corporation, but no formal appointment order was issued; that since more facilities were required for running Arasu Cable, the petitioner had shifted her MSO premises to the building No.1, Asath Road, Municipal Commercial Complex, Karur, which belongs to Karur Municipality; that the petitioner has invested nearly Rs.80 lakhs for carrying of MSO operations without any interruption; that she had also spent more than Rs.45 lakhs for laying optical fibre throughout Karur District and also spent Rs.30 lakhs for getting latest technology such as receivers, Sawfilters, Modulators, Auto generators, EDF, Transmitters and Nodes; that the second respondent has directed the petitioner to take action against the channels which did not pay the monthly carriage fee, which was owned by Jeyam Moorthy and directed the petitioner to disconnect the three local channels; that the petitioner was threatened by the then Special Tahsildar of Arasu Cable TV Corporation Soundarapandian not to execute the order of the second respondent; that since the petitioner did not oblige to his request, the said Tahsildar in order to save the defaulting persons started threatening the petitioner; that the petitioner was shocked to receive the order, dated 11.01.2012 issued by the third respondent citing a telephonic call from the



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District Collector; that since the petitioner and her husband were coerced, they were left with no other option but to submit the same; that the petitioner had been dispossessed from her own premises overnight and all the equipments were taken over and that the petitioner with no other option has filed a writ petition challenging the order, dated 18.01.2012 in W.P.(MD)No.809 of 2012.

4. When the above writ petition was moved, a learned Judge of this Court has issued interim direction to keep all the articles in the subject premises as it is, without removing the same vide order, dated 12.03.2012 passed in W.M.P(MD)No.1 of 2012 in W.P(MD)No.809 of 2012, that this Court by observing that the notice sent by the first respondent, dated 21.03.2012 *prima facie* indicates the right claimed by the petitioner, has granted an order of interim stay and subsequently vide order, dated 26.04.2012 an Advocate Commissioner came to be appointed, directing him to inspect the control room situated at Door No.1, Asath Road, Karur, open the lock in the presence of the respondents, take record of the materials available in the control room, lock the premises and hand over the key to the Registrar (Judicial), Madurai Bench of Madras High Court, Madurai and that thereafter, this Court vide order, dated 08.01.2013, has dismissed the writ petition in W.P. (MD)No.809 of 2013.



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5. It is not in dispute that the petitioner has preferred an appeal in W.A(MD)No.398 of 2013 and the Division Bench of this Court vide judgment, dated 11.09.2017, allowed the writ appeal and thereby setting aside the order passed by the learned Single Judge in W.P.(MD)No.809 of 2012, dated 08.01.2013.

6. As rightly contended by the learned counsel for the petitioner, the Division Bench has specifically observed that a perusal of the order, dated 11.01.2012 would clearly show that all is not well and the exact observations and directions of the Division Bench are extracted hereunder for better appreciation.

“ 5.We are on the question of validity of the impugned order passed by the third respondent. Admittedly, the impugned order has got serious civil consequence. It did take away the entire right of the appellant in one stroke. A perusal of the order passed by the first respondent would clearly show that all is not well. Further more, the said order recognized the appellant as Multi System Operator (MSO). In the said order, the Multi System Operator has failed to take appropriate action. He is not a stranger. The third respondent passed such an order and thereafter, proceed to take possession from the appellant. The second respondent is not at all an authority, who could direct even orally. The third respondent is not acting as a District



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Collector, nor the third respondent as a Tahsildar. The third respondent is duty bound to act as the first respondent and not as the second respondent. Therefore, the entire proceedings smacks of arbitrariness. Admittedly, the appellant was not heard. We are at a loss to know on what basis such oral direction was issued, dispensing with the procedure required by law to be adopted either by the first respondent or by the third respondent, as the case may be. Hence, Looking from any perspective, upholding the order of the third respondent, on the reason of the learned Single Judge, in our considered view, cannot be sustained. The issue pertaining to termination of husband of the appellant as a Technical Advisor, is irrelevant.

6. When the letter, dated 21.03.2012 is not in dispute, it cannot be held that the appellant was not appointed as a Multi System Operator (MSO). It is not open to the respondent to take such a Plea. For appointing Multi System Operator (MSO), there need not be any written agreement, as the same can be done, otherwise orally which appears to be done in the case on hand.

7. We also find that the list of equipment signed by the third respondent dated 11.11.2012 also show that they have been received from the appellant.

8. In such view of the matter, the impugned order stands set aside. However, liberty is given to the first respondent to proceed as per law.

...

10. In the light of the above, we direct the first respondent to issue notice to the appellant within a period of four weeks from the



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date of receipt of a copy of this order. The appellant is at liberty to give a reply to the said notice, within a period of two weeks, thereafter. The first respondent shall take a decision by also considering the issue of handing over the equipment in favour of the appellant in the light of the order passed. Necessary orders will be passed within a period of four weeks after receiving the reply. Depending upon the order to be passed by the first respondent, the appellant can work out his remedy before the Civil Court for appropriate relief, including one for damages.”

7. In pursuance of the directions issued by the Division Bench of this Court, the first respondent, considering the reply and other records submitted by the petitioner, has passed an order, dated 19.03.2018 rejecting the claim of the petitioner. Aggrieved by the said order, the petitioner has filed another writ petition in W.P.(MD)No.24817 of 2018 and a learned Judge of this Court, by observing that the writ petitioner as well as the first respondent have totally misdirected themselves and that they have not complied with the remand order, has passed an order, dated 27.03.2019 setting aside the order of the first respondent and remitted back to the first respondent again and the relevant passage is extracted hereunder:

“4. Therefore, the order impugned in this writ petition is once again set aside and the first respondent is directed to take a decision



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as to whether the writ petitioner was illegally removed as MSO and

whether his earlier designation as MSO has to be restored or not?

The second respondent herein shall pass orders in this regard, within a period of six weeks from the date of receipt of a copy of this order.”

8. In pursuance of the directions of this Court, dated 27.03.2019, the first respondent, considering the reply and other documents produced by the petitioner, has passed the impugned order, dated 02.07.2019, by holding that the petitioner was rightly removed from MSO, rejected the claim of the petitioner. Challenging the said order dated 02.07.2019, the present writ petition came to be filed.

9. In the impugned order, the first respondent has assigned three reasons for rejecting the petitioner's claim and according to them, since the petitioner has not paid the rents, the Commissioner, Karur Municipality has sent a notice to the petitioner, directing her to pay arrears of rent immediately, failing which, the building in occupation of the petitioner will be sealed and the second reason assigned is that the petitioner while acting as MSO has violated the various terms and conditions of Government and the third reason is that the petitioner's husband had involved in various misconducts and threatened the



Cable TV operators to give amount for getting Arasu Cable TV connections and thereby caused loss to the Government.

10. As rightly contended by the learned counsel for the petitioner, the above three reasons were not at all canvassed in the earlier proceedings. It is not the case of the first respondent that notice was issued to the petitioner seeking his response for the above allegations and that enquiry came to be conducted in respect of those allegations. Though the first respondent has assigned the above reasons in the impugned order, they have not received any response from the petitioner with respect to those allegations.

11. Moreover, as rightly contended by the learned counsel for the petitioner, this Court is also at loss to understand as to how the action by the Karur Municipality can be taken as a reason for removing the petitioner from MSO. Though the first respondent has alleged that they have received some complaints against the petitioner and her husband, they have not elaborated anything further.

12. On a perusal of the available records, as rightly observed by the Division Bench of this Court in Writ Appeal (MD)No.398 of 2013, this Court



is also constrained to say that all is not well. As rightly pointed out by the Division Bench, the third respondent has passed the first order, dated 11.01.2012 on the basis of telephonic call from the District Collector, Karur and without revealing the basis on which, such oral direction was issued, dispensing with the procedure required by law to be adopted for passing said order.

13. No doubt, as rightly contended by the learned counsel for the respondents that since MSO and DCO appointments are not in existence and the High Court has directed to call a tender for appointing digital signal distributor, the question of restoring the MSO to the petitioner does not arise at all.

14. Considering the facts and circumstances of the case and also taking note of the submission made by the learned counsel on either side, the finding of the second respondent in the impugned order that the petitioner was rightly removed from MSO cannot legally be sustained. But at the same time, the conclusion arrived at by the second respondent that the petitioner has to apply and participate in the tender for appointment of digital signal distributor as per directions of the High Court, cannot be found fault with.



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15. The learned counsel for the petitioner would submit that the Advocate Commissioner has filed his report stating that the equipments, which were in the control room are not in working condition and the original equipemnts were shifted.

16. Considering the above, as rightly contended by the learned counsel for the petitioner, the petitioner is certainly entitled to approach the competent Civil Court claiming damages.

17. With the above observations, the Writ Petition is disposed of. The petitioner is at liberty to approach the competent civil Court claiming damages.

No costs.

29.07.2024

NCC :Yes/No
Index : Yes/No
Internet : Yes/No
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K.MURALI SHANKAR, J

DAS

To

- 1.The District Collector,
Karur District, Karur 639 007.
- 2.The Managing Director,
Tamil Nadu Arasu Cable TV Corporation Ltd.,
Dugar Towers, No.34(123), 6th Floor,
Marshalls Road, Egmore, Chennai – 600 008.
- 3.The Special Tahsildar,
Tamil Nadu Arasu Cable TV,
Karur, Karur District.

Pre-delivery order made in
W.P(MD)No.15936 of 2021

Dated 29.07.2024