



WP(MD). No.16551 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 24/07/2024

CORAM

The Hon`ble Ms.Justice R.N.MANJULA

**WP(MD). No.16551 of 2024
and WMP(MD) No.14333 of 2024**

S.Vinayagamani

... Petitioner

Vs

1. The District Collector,
Madurai District, Madurai

2.The Revenue Divisional Officer,
Melur Revenue Division,
At Narasingampatti, Melur Taluk
Madurai District

3. The Tahsildar
Melur Taluk, Madurai

4.V.Alaguraja

... Respondents

PRAYER :-Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus, calling records relating to the impugned order passed by the 2nd respondent by his proceedings in Na.Ka.No.02/2023/A3 dated 01.09.2023 quash the same as arbitrary and illegal and consequently



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direct the 2nd respondent to take suitable disciplinary action against the 4th respondent for the violation of rule 7 of The Tamilnadu Government Servant Conduct Rules, 1973 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.K.Mahendran

For Respondents : Mr.J.Ashok
Additional Government Pleader

ORDER

Heard Mr.K.Mahendran, learned counsel appearing for the petitioner and Mr.J.Ashok, learned Additional Government Pleader appearing for the respondents 1 to 3. Since no adverse order is going to be issued against the 4th respondent, notice to the 4th respondent is dispensed with.

2. The petitioner has filed the writ petition challenging the impugned order of the 2nd respondent dated 01.09.2023 and consequently direct the 2nd respondent to take suitable disciplinary action against the 4th respondent for the violation of Rule 7 of The Tamilnadu Government



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Servant Conduct Rules, 1973 within the time limit that may be stipulated by this Court.

3. The facts in nutshell that lead to the filing of the writ petition are as follows:

The 4th respondent, who is working as Village Administrative Officer, purchased 7 cents of lands on 28.06.2023 from one Syed Ibrahim. However, the said purchase of land is without obtaining necessary permission. Patta was also changed in the name of the 4th respondent subsequently. While so, for the agricultural land, the 4th respondent is said to have obtained building permission and built a commercial complex. Since the act of the 4th respondent in purchasing the land and subsequent construction made are without getting necessary permission, the petitioner, who is a third party, filed a writ petition to initiate action against the 4th respondent in WP(MD) No.31126/2023. The said writ petition has been disposed of by directing the respondents to consider the representation of the petitioner within six weeks. Since no action has been taken on the same, the petitioner again filed WP(MD) No.30278/2023 and orders were reserved in the said writ petition. In the



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counter filed by the 4th respondent in the said writ petition, it is stated that as per the proceedings of the 2nd respondent, ratification has been given to the 4th respondent. Being a Government servant, since the 4th respondent has violated Rule 7(1)(b) of the Tamil Nadu Government Servants Conduct Rules, 1972, (hereinafter referred to as 'the Rules') the petitioner, being a third party, is again before this Court with the present writ petition challenging the impugned order of the 2nd respondent and for taking action against the 4th respondent.

4. The learned counsel for the petitioner submitted that the 4th respondent had put up construction encroaching the poramboke land by way of purchasing the above site, for which ratification has been granted vide the impugned order. According to the petitioner, the ratification has been given in violation of the Rules and hence, the same is liable to be set aside.

5. In the earlier writ petition filed by the petitioner, a direction was issued to consider the representation of the petitioner and even before the said representation was considered, the impugned order came



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to be passed thereby ratifying the action of the 4th respondent.

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6. No doubt, whenever a Government servant purchased an immovable property, as per the Rules, he has to seek prior permission. In the case of the 4th respondent, it appears that he did not seek prior permission before purchasing the land. Even the petitioner does not have any interest in the property purchased by the 4th respondent. The only allegation is that by way of purchasing the land, the 4th respondent had put up construction encroaching the poramboke land as well and he has violated the Rules.

7. The very allegation that was made by the petitioner would show that the petitioner is trying to make out a civil case and it seems that there are some dispute between the petitioner and the 4th respondent with regard to the alleged construction. So far as prior permission obtained from the department is concerned, it is prerogative of the appropriate authority either to accord permission / reject / ratify the act of the Government servant, if the properties were purchased without permission or to initiate disciplinary action. The petitioner, who is a third party, has



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claimed that the Rules does not give scope for post ratification and hence, the 2nd respondent ought to have initiated disciplinary action against the 4th respondent.

8. As stated already, it is within the discretion of the 2nd respondent either to initiate disciplinary action or to ratify the act of the 4th respondent. When there are discretion vested with the authorities, a third party need not worry about the Rules in this regard. It goes without saying that the administrative exigencies many times require the discretion to be exercised in proper manner in the interest of best administration and to ensure harmony in the public office. It appears that one such action has been taken by the 2nd respondent by affording ratification of the purchase and the petitioner cannot be allowed to make out a service litigation on the ground that the Rules does not have any scope for post ratification.

9. In view of the above, I do not find any merits in the writ petition filed by the petitioner. Accordingly, the writ petition is dismissed. It is open to the petitioner to file any civil litigation without invoking Article



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226 of the Constitution of India to settle his personal score with the 4th respondent, just because he happens to be a Government servant. No costs. Consequently connected Miscellaneous Petition is closed.

24.07.2024

RR

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R.N.MANJULA,J

RR

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