



W.P.(MD) No.18716 of 2016

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.18716 of 2016

and

W.M.P.(MD) Nos.13540 and 16266 of 2016

Angela Thomas

.. Petitioner

Vs.

1.The Inspector General of Registration,
Santhome High Road,
Chennai-28.

2.The District Registrar (Administration),
District Registrar Office,
Palayamkottai, Tirunelveli District.

3.The Sub Registrar,
Kovilpatti,
Tuticorin District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records relating to the impugned order permanently cancelling the document writer license bearing License No.B/10/99/PLY of the petitioner *vide* the proceedings of the first respondent in Order No.22233/S1/2016 dated



W.P.(MD) No.18716 of 2016

31.08.2016 by confirming the order passed by the second respondent herein in his proceedings No.4355/E/2015 dated 06.11.2015 under Rule 16(3) of the Tamilnadu Documents Writers Rules, 1982.

For Petitioner : Mr.A.K.Baskara Pandian

For Respondents : Mr.M.Sarangan
Additional Government Pleader

ORDER

The challenge in the writ petition is to an order by which the petitioner's licence had been cancelled by the second respondent as confirmed by the first respondent.

2. Heard Mr.A.K.Baskara Pandian, learned counsel for the petitioner and Mr.M.Sarangan, learned Additional Government Pleader appearing on behalf of the respondents.

3. The case of the petitioner is that she had passed the examination for grant of licence of Document Writers and was issued with a licence in the year 1999 and had been renewing her licence periodically. Differences arose between the petitioner along with other Document



W.P.(MD) No.18716 of 2016

Writers with the person holding the office of the third respondent, at the relevant point of time in receiving the documents for registration. Based upon the rift, without issuance of notice and based on the complaint of the third respondent herein, the second respondent had passed an order dated 18.08.2015 suspending the licence of the petitioner for a period of six months. *De hors* the said order, the second respondent has issued a show cause notice calling upon the petitioner to explain as to why the licence of the petitioner should not be permanently cancelled. The said order of suspension was challenged by the petitioner in W.P.(MD) No. 15339 of 2015. This Court has set aside the order dated 18.08.2015 and directed the third respondent to issue show cause notice to the petitioner and thereafter, after providing an opportunity of personal hearing, take a decision in the matter. Since show cause notice was issued to the petitioner, the petitioner had also submitted her explanation to the said show cause notice. However, without considering the explanation submitted by the petitioner, the second respondent had passed orders cancelling the licence. The petitioner had also preferred a writ petition against the said order and this Court had dismissed the writ petition,



W.P.(MD) No.18716 of 2016

however, granted liberty to the petitioner to file an appeal. An appeal had also been preferred to the first respondent herein and the first respondent without analysing the facts and circumstances of the case, has dismissed the appeal confirming the order passed by the second respondent. Hence, she has preferred the present writ petition.

4. Learned counsel for the petitioner would contend that the orders impugned herein have been made without application of mind and based on evidences, which have not been supplied to the petitioner. He would also contend that for the delinquency that is alleged to have been proved, the punishment is severely harsh and highly disproportionate. He would submit that the petitioner is only the earning member of the family and her only avocation is document writing and hence, he would request this Court to interfere with the impugned orders challenged in this writ petition.

5. Countering his arguments, the learned Additional Government Pleader would submit that there has been no error in the procedure



W.P.(MD) No.18716 of 2016

followed during the proceedings. A show cause notice has been issued calling upon the petitioner to submit her explanation and the petitioner had also submitted her explanation upon which the second respondent had passed the original order. Even the first respondent before passing the order, had granted an opportunity of personal hearing to the petitioner and the petitioner had also appeared before the first respondent and submitted her explanation reiterating her reply to the show cause notice. Hence, he would submit that there is no infirmity in the procedure followed during the enquiry both by the first and second respondents and the delinquency that had been committed by the petitioner deserves the punishment which had been imposed by them and therefore, would submit that no interference is required to be made to the impugned orders. He would further submit that if any leniency is shown to the petitioner, it would be a bad precedent in the future cases.

6. Two charges were framed against the petitioner and the said charges relate to the abuse of the third respondent by the petitioner in front of public and calling upon the third respondent to act to the whims



W.P.(MD) No.18716 of 2016

and fancies of the petitioner and violating the circulars issued by the Inspector General of Registration, dated 22.10.2010 and 25.04.2012, the petitioner had given a reply refuting the charges that had been framed against her.

7. From a reading of the order impugned passed by the second respondent, it could be seen that except extracting the charges and the reply, no independent evidence had been let in for imposing the punishment. Further, a compact disc had been relied upon by the second respondent in coming to a conclusion that the charges have been proved. The said compact disc had not been supplied to her. The charge memo dated 28.08.2015 also do not refer to any compact disc, which has been sought to be relied during the process of enquiry. The same also do not contain the list of witnesses or any other document that is sought to be relied upon by the Department. Further, a reading of the order in the appeal passed by the first respondent would show that the appellate authority has also relied upon the said compact disc, which was not provided to the petitioner and proceeded to hold that there was no



W.P.(MD) No.18716 of 2016

infirmity in the order passed by the second respondent. Since both the impugned orders heavily rely upon the compact disc, without the same being supplied to the petitioner, there has been clear violation of principles of natural justice.

8. No counter affidavit has been filed either by the first respondent or the second respondent, who had to substantiate the enquiry conducted by them. However, the third respondent had filed a counter claiming that the petitioner had admitted to the charges and to substantiate the charges 1 and 2, there are CCTV footage also produced to the first and second respondents. He would submit that the CCTV footage, which was given in the compact disc conclusively proves that the petitioner had committed delinquency. There is no admission in the counter that the CCTV footage in the compact disc was supplied to the petitioner and the same had been marked through a witness to authenticate the recordings in the said compact disc. A reading of the explanation submitted by the petitioner to the second respondent does not also indicate that she had not denied the charges.



W.P.(MD) No.18716 of 2016

WEB COPY

9. Since I have already found that the second and the first respondents had not followed the procedures for conducting an enquiry by which the petitioner's licence was cancelled, I am inclined to interfere with the impugned order. Since respondents 1 and 2 had not followed the procedure, it is only imperative to remand the matter back to them for conducting a *de novo* enquiry. However, considering the time when the incident had occurred and the date on which the impugned orders cancelling the licence passed by the second respondent were made, I do not intend to remit the matter back to the respondents for the simple reason that the petitioner had suffered much already from 06.11.2015, the date on which the first impugned order was passed, till the date of this order, by not able to perform the functions of a Document Writer. This itself in my view, would be a sufficient punishment for the alleged charges.

10. In the peculiar facts and circumstances of the case, without interfering with the finding that the petitioner had committed delinquency, I am inclined to interfere only with the punishment that had



W.P.(MD) No.18716 of 2016

been imposed, as I find that the said punishment is also harsh and highly disproportionate to the charges that have been levelled against the petitioner. In view of the same, the licence of the petitioner shall stand restored within a period of four weeks from the date of receipt of a copy of this order. The petitioner shall also give an undertaking to the second respondent that she will not indulge in future by violating the rules and procedures governing the Document Writers. The period between 06.11.2015 till the date of the order shall be treated as 'suspension of licence' being the punishment for the delinquency committed by the petitioner.

11. This Writ Petition stand disposed of in the light of the above observations. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

12.11.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

abr



W.P.(MD) No.18716 of 2016

WEB COPY

To

- 1.The Inspector General of Registration,
Santhome High Road,
Chennai-28.
- 2.The District Registrar (Administration),
District Registrar Office,
Palayamkottai, Tirunelveli District.
- 3.The Sub Registrar,
Kovilpatti,
Tuticorin District.



WEB COPY



W.P.(MD) No.18716 of 2016

K.KUMARESH BABU, J.

abr

W.P.(MD) No.18716 of 2016

Dated: 12.11.2024