



W.P.(MD) No.24600 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.24600 of 2016

and

W.M.P.(MD) Nos.17723 and 17724 of 2016

1.M.Subramaniyan

2.Vellaichamy

3.Sankaranarayanan

4.Amara Jothi

5.Rajeswari

.. Petitioners

Vs.

1.The Ombudsman,
The Tamil Nadu Local Bodies Ombudsman,
No.100, Anna Salai, Guindy,
Chennai-32.

2.The Commissioner,
Virudhunagar Municipality,
Virudhunagar Town and District.

3.S.Pandurangan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India,
praying for issuance of Writ of Certiorari, to call for the records of the



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first respondent in his proceedings in Order No.0139/2016 dated 19.08.2016 and consequential orders passed by the second respondent in his proceedings in Na.Ka.No.E3/1109/2016, dated 02.10.2016 and quash the same as illegal, arbitrary and violation of principles of law.

For Petitioners : Mr.G.Marimuthu
For R1 : Mr.D.Shanmugaraja Sethupathi
For R2 : Mr.M.Muthugeethayan
For R3 : Mr.R.Udhayakumar

ORDER

The challenge in the writ petition is to the order passed by the first respondent and the consequential order issued by the second respondent.

2. The first respondent, based upon a complaint given by the third respondent had conducted an enquiry and had issued directions to the second respondent to recover monies from the petitioners herein and also initiate appropriate action for the malfeasance and misfeasance conducted by the authorities of the second respondent. Pursuant to the said direction issued by the first respondent, the second respondent had



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issued the impugned order dated 02.10.2016 calling upon the petitioners to make the payment as indicated by the first respondent.

3. From a reading of both the impugned orders, it could be seen that the petitioners have not been put on notice, which is in gross violation of the principles of natural justice. Further, the functions of the Ombudsman is to pass orders of recovery of loss to a local body from the persons responsible for such irregularity based upon the conclusion that the allegations made in the complaint enquired to have been proved.

4. Section 7(ii)(b) of the Tamil Nadu Local Bodies Ombudsman Act, 2014 only empowers the first respondent to order recovery for the loss from the authorities responsible for such irregularity and not against the beneficiaries as in this case. Therefore, the first respondent do not have jurisdiction to pass any orders against the petitioners that too, without even giving them an opportunity of hearing. In such event, the said direction, issued by the first respondent directing recovery of Rs.93,000/- each from the beneficiaries alone is set aside. All other



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directions issued by the Ombudsman against the erring officials for initiation of criminal prosecution and disciplinary proceedings shall stand as such.

5. It is also indicated that pursuant to the orders passed by the Ombudsman and the order vacating the interim order granted by this Court, a criminal complaint has also been registered and the same is pending in C.C.No.111 of 2018 on the file of the Judicial Magistrate-II, Virudhunagar, wherein the writ petitioners have also been arrayed as accused.

6. The impugned order passed by the second respondent demanding the said amount has been issued based upon the order passed by the first respondent. Since the said portion of the order has been set aside by this Court, the impugned order passed by the second respondent shall also stand set aside however, with liberty to the second respondent to initiate appropriate proceedings in the manner known to law and after providing opportunity to the concerned persons. However, considering the fact that the impugned order dated 02.10.2016 passed by the second



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respondent made a demand, the same shall be treated as a show cause notice by the petitioners and the petitioners are to submit their reply on or before 31.12.2024 and thereafter, the second respondent after providing personal hearing to the petitioners, shall pass orders in accordance with law.

7. With the aforesaid direction, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

20.11.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes

abr

To

1.The Ombudsman,
The Tamil Nadu Local Bodies Ombudsman,
No.100, Anna Salai, Guindy, Chennai-32.

2.The Commissioner,
Virudhunagar Municipality,
Virudhunagar Town and District.



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K.KUMARESH BABU, J.

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