



W.P.(MD)No.23937 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.23937 of 2024
and WMP(MD) Nos.20275 & 20276 of 2024

Ayyappan

... Petitioner

Vs

1. The District Collector,
District Collector Office,
Sivagangai,
Sivagangai District.

2. The Revenue Divisional Officer,
O/o.Revenue Divisional Office,
Sivagangai, Sivagangai District.

3. The Tahsildar,
Thiruppuvanam Taluk,
Sivagangai District.

4. The Village Administrative Officer,
37, Piramanur East Group,
Thiruppuvanam Taluk,
Sivagangai District.

5. The District Forest Officer,
Sivagangai Forest Division,
Sivagangai.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the entire records relating to the Impugned Order passed by the 2nd respondent in Na.Ka.A2/8297/2023, dated 28.08.2024 (served to the petitioner only on 23.09.2024) and quash the same.

For Petitioner : Mr. J.Lajapathiroy
For Respondents : Mr.D.Gandhiraj
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned Order passed by the 2nd respondent in Na.Ka.A2/8297/2023, dated 28.08.2024.

2.Heard learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

3. The case of the petitioners is that it is the case of the writ petitioner that he was a successful bidder in Auction conducted for removing the (Prosopis Juliflora) Veli Karuvelam tree, in S.No.452 to an extent of 4.20.0 hectares. It is alleged that the impugned order passed against him to the effect that though



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permission was granted to cut (Prosopis Juliflora) Veli Karuvelam trees in an extent of 4.20.0 hectares alone for a period from 2019 to 2020, after expiry of the contract period, the petitioner has cut the (Prosopis Juliflora) Veli Karuvelam tree, besides that, he cut Babool trees without permission.

4. Accordingly, the impugned order came to be passed to the effect that the petitioner has removed 52 tonnes of Babool trees and 102 tonnes of (Prosopis Juliflora) Veli Karuvelam trees. Therefore, the impugned order has been passed to the effect that total amount of Rs. 41,29,200/- has to be paid by the petitioner. Challenging the same, this writ petition has been filed.

5. The main contention of the learned Senior Counsel for the petitioner that no sufficient opportunity has been given to the petitioner before imposing the penalty and assessment was also not made in the presence of the petitioner.

6. The learned Special Government Pleader submitted that only based on assessment, the impugned order has been passed. However, it is submitted that no opportunity has been given to the petitioner.



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7. In such in view of the above facts, while imposing penalty, like penal consequences, sufficient opportunity has to be given to the petitioner. It is not disputed that the petitioner has granted license to remove the (Prosopis Juliflora) Veli Karuvelam trees during the contract period from 2019 to 2020. However, even after expiry of the contract, it appears that the petitioner besides removing the (Prosopis Juliflora) Veli Karuvelam trees appears to have removed the Babool trees, which resulted in issuance of impugned order.

8. Even assuming that the petitioner has removed other valuable trees, for imposing penalty, it requires proper evaluation. However, no opportunity has been given to the petitioner before imposing penalty. So far as the removal of (Prosopis Juliflora) Veli Karuvelam trees the Full Bench of this Court repeatedly directed the respondents to remove the (Prosopis Juliflora) Veli Karuvelam trees and even directed the authorities to permit the private parties to remove the said trees. As far as the removal of the (Prosopis Juliflora) Veli Karuvelam trees is concerned, after the contract period only value of the trees alone may be taken into consideration and there cannot be any penalty for that. At the most, only for removal of Babool trees, the value alone should be calculated for imposing penalty. The authorities have to decide the value of those trees, after giving



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sufficient opportunity to the petitioner. Such an exercise shall be completed within a period of four weeks from the date of receipt of copy of this order.

9. With the above direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

17.10.2024

NCC : Yes/No

Index : Yes/No

PNM

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