



W.A.(MD).No.2359 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.A.(MD).No.2359 of 2024

and

C.M.P.(MD).Nos.16377 and 16378 of 2024

M/s.Muthupandeeswari Modern Rice Mill,
Represented by its Proprietor,
M.Muthupandeeswari.

... Appellant/ Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Street,
Kilpauk,
Chennai - 600 010.

2.The Sub Collector,
Tamil Nadu Civil Supplies Corporation,
Madurai Region,
Madurai.

... Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 05.11.2024, and made in W.P.(MD).No.24403 of 2024 by allowing this appeal.



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For Appellant : Mr.R.Suriya Narayanan
For R-1 : Mr.S.R.A.Ramachandran
Additional Government Pleader
For R-2 : Mr.R.Baskaran
Additional Advocate General
assisted by Mr.R.Satheesh
Standing Counsel

JUDGMENT

(Judgment of the Court was made by M.S.RAMESH,J.)

The present Writ Appeal has been filed challenging the order passed by the learned Single Judge in W.P.(MD).No.24403 of 2024 dated 05.11.2024.

2. The appellant herein was appointed as a Hulling Agent under the Tamil Nadu Civil Supplies Corporation (hereinafter referred to as 'Corporation') through an agreement dated 29.07.2020. As per Clause 12 of the agreement, whenever the Corporation has reason to believe that the Agent has indulged in malpractices or misappropriated the paddy/resultant rice or gunnies, blacklisting of the mill can be ordered.

3. On an allegation that the first respondent had conducted an inspection in the appellant mill and had discovered 400 gunny bags of paddy (16 metric



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tonnes), which was procured from direct purchase centre, Kamathakudi, Ramanathapuram to be missing, a notice in Na.Ka.No.B1/7229/2023 dated 05.06.2024 was issued to the appellant by the Regional Manager of the Corporation. The appellant had given their reply on 07.06.2024, objecting to the proposed action sought to be made in the notice dated 05.06.2024. However, it is claimed that without consideration of her objections in her letter dated 07.06.2024, the second respondent herein had passed the impugned order dated 04.10.2024, blacklisting the appellant mill. The challenge to this order before the writ Court in W.P.(MD).No.24403 of 2024 was rejected on 05.11.2024, which order was assailed in the present intra-Court appeal.

4. The learned counsel for the appellant would submit that no due opportunity was extended to the appellant mill before the blacklisting order was passed by the second respondent herein and that she had valid grounds to object to the proposed action, which they could not avail of. It is on the ground of violation of principles of natural justice, the appellant had preferred the Writ Petition, even though there was an appellate remedy available under Clause 42 of the agreement.



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5. The learned Additional Advocate General appearing for the second respondent, however, would submit that since Clause 42 of the agreement provides for appellate remedy, it is always open to the appellant to avail the appellate remedy, instead of invoking Article 226 of the Constitution of India.

6. It is settled proposition of law that whenever there is a violation of the principles of natural justice, it would be open to the aggrieved party to invoke Article 226 of the Constitution of India, even when statutory appellate remedies are provided for. One such case is ***Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and others*** reported in ***(1998) 8 SCC 1***, wherein, the Hon'ble Supreme Court has held that alternative remedy, would not operate as an absolute bar and that a Writ Petition under Article 226 could still be entertained in exceptional circumstances, including for violation of the principles of natural justice.

7. In the instant case, the ground taken before the learned Single Judge by the appellant is that no show cause notice was issued prior to passing final orders of blacklisting. However, the learned Single Judge had factually found that a show cause notice was issued on 05.06.2024, to which, a reply was also given by the appellant on 07.06.2024 and therefore, had come to the conclusion



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that there was no violation of principles of natural justice and hence, rejected the Writ Petition.

8. In this appeal, the learned counsel for the appellant has raised a ground that even though the appellant had replied to the show cause notice, the same has not been considered by the second respondent while passing the order dated 04.10.2024.

9. A perusal of the reply given by the appellant on 07.06.2024 clearly reveals that this letter was in response to the show cause notice dated 05.06.2024, as found in paragraph 1 of that letter. Likewise, when we had perused the final order passed by the second respondent dated 04.10.2024, there is absolutely no reference to any of the objections raised by the appellant in her reply dated 07.06.2024.

10. The very purpose for which a show cause notice is issued, is to extend an opportunity to the recipient to give objections on the proposed action to be initiated by the second respondent herein and where objections are made, there is a duty cast on the respondents to consider such objections and give their reasoning, while taking further course of action. In the absence of the



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same, the consequential order which is passed, would be in violation of principles of natural justice and hence, the Writ Petition filed by the appellant, without availing the appellate remedy, would be maintainable, as held in *Whirlpool* case (supra).

11. On this short ground, we are of the affirmed view that the second respondent herein could be directed to re-consider the appellant's objections and then take a final call after extending due opportunity to the appellant.

12. In the light of the above observations, the order passed by the second respondent dated 04.10.2024 is set aside and the matter is remitted back to the second respondent herein for fresh consideration. The second respondent shall consider the objections of the appellant, as well as give them an opportunity of personal hearing, during which time, they would be at liberty to rely upon any documents, which they intend to place it before the second respondent. The final order to be passed by the second respondent shall be a speaking order, which shall consider all the objections raised by the appellant herein. The second respondent shall conclude such proceedings, at least within a period of four (4) weeks from the date of receipt of a copy of this order.



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13. Accordingly, this Writ Appeal stands partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(M.S.R.,J.) (A.D.M.C.,J.)
18.11.2024

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

To

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