**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 04.12.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

W.P.(MD) No.21770 of 2017
and
W.M.P.(MD) Nos.18059 and 18060 of 2017

Hari Baskar .. Petitioner

Vs.

1.Government of Tamil Nadu,
Rep., by Principal Secretary to Government,
Commercial Taxes and Registration Department,
Fort St. George, Chennai-600 009.

2.The Tamil Nadu Additional Inspector
General of Registration (Chits),
Chennai-600 028. .. 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 made in No.42924/I3/99 dated 11.04.2001 on the file of Tamil Nadu Additional Inspector General of Registration (Chits), Chennai-28, the 2nd Respondent herein as confirmed in G.O.(D) No.342 dated 21.08.2017 on the file of Government of Tamil Nadu represented by Principal Secretary to Government, Commercial Taxes and Registration and quash the same.

For Petitioner : Mr.G.Ramanathan

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

**ORDER**

The challenge in the writ petition is to the orders of the second respondent herein where the petitioner had been handed over with the punishment of cancellation of his licence for document writing.

2. The case of the petitioner is that he was issued with a valid licence in the year 1999 for performing the work of a Document Writer. However, the petitioner was issued with the show cause notice by the second respondent calling for explanation on various allegations based on the report of the Vigilance Inspector. In reply to the show cause notice, the petitioner had sent a detailed explanation on 09.03.2001. However, the second respondent without conducting any due enquiry and without assigning any reasons, had passed an order of cancellation of the petitioner's licence. The said order was passed in complete violation of

principles of natural justice. Even the documents to substantiate the charges were not provided to the petitioner and no one was also examined to drive home the allegations. Being aggrieved against the said order, the petitioner had preferred an appeal before the first respondent herein and the Government by G.O.(Ms).No.85 (Commercial Taxes (W) Department), dated 03.07.2002, had dismissed the appeal preferred by the petitioner. Being aggrieved against the same, the petitioner had preferred a writ petition before this Court in W.P.No.35648 of 2002 and this Court, finding that the documents were not provided to the petitioner, had set aside the order made by the first respondent and issued further direction to furnish a copy of the report of the District Registrar relied upon by the first respondent and the report of the Special Vigilance Committee with a further direction to provide an opportunity to the petitioner. Pursuant to the order passed by this Court, a fresh notice of enquiry was issued by the first respondent on 02.06.2017. Without complying with the directions issued by this Court, only a portion of the remarks of the District Registrar was furnished and not the report of the Special Vigilance Committee.

3. He would further submit that there had been no enquiry even by the Vigilance Team with the petitioner or any one in the Registrar's Office or co-employees of the petitioner. Without all this, the first respondent again rejected the appeal filed by the petitioner by holding that the vigilance report has been substantiated by the further report of the District Registrar and therefore, the petitioner had committed the allegations made against him.

4. He would further submit that the appellate authority *viz.,* the first respondent had not considered the fact that no witnesses were examined with regard to the allegations of misbehaviour of the petitioner with the then Sub-Registrar. When that be so, simplicitor relying upon the report of the Vigilance Office and the District Registrar, which was also made without conducting any enquiry with any individual whomsoever, such as the employees of the Registrar's Office, co-licencees, public who had frequented the Registrar's Office on the date on which allegations are made, the complaint against the petitioner

could not be said to be proved. He would submit that he did not have the opportunity to cross examine any such witnesses. If such witnesses were produced, the petitioner would have cross examined and vindicated his case. Even the Vigilance Officer was not examined to prove that the said report is supported by substantial materials. In such event, he would submit that the impugned order is liable to be set aside.

5. Countering his argument, Mr.R.Suresh Kumar, learned Additional Government Pleader would submit that the petitioner had misbehaved with the Registrar frequently which had been elucidated in the report of the Special Vigilance Committee. He would further submit that the first respondent had called upon the report from the District Registrar concerned and the District Registrar after due enquiry had given a report that the report of the Special Vigilance Team is fully substantiated. He would submit that in such event, no necessity to examine any of the witness. He would submit that sufficient opportunity had been given to the petitioner to espouse his case and the explanation given by the petitioner was not found satisfactory. Therefore, there is no

necessity for this Court to interfere with the orders of punishment imposed on the petitioner.

6. I have considered the rival submissions made by the learned counsel on either side.

7. It is the case where the petitioner has been proceeded with on the basis of certain allegations. For the show cause notice that had been issued to the petitioner, the petitioner had also submitted a detailed explanation. However, before passing the order, the second respondent had not given any opportunity of hearing to the petitioner. Further, a reading of the order passed by the second respondent would also indicate that the same had been made by plainly reading upon the report of the Vigilance Team. No witnesses were examined to prove the said allegations. Even the report of the Vigilance Team that had been relied upon by the second respondent was not provided to the petitioner. When the appeal filed against such order was rejected and challenged before this Court, this Court had given a specific direction to provide the

relevant portion of the remarks to the District Registrar, which had been relied upon by the first respondent and also the report of the Vigilance Committee, after which the petitioner was permitted to submit his remark/reply and thereafter, the first respondent was directed to pass orders on merits. A notice was issued enclosing the documents as mandated. The petitioner had submitted a detailed explanation both on the remarks submitted by the District Registrar and the report submitted by the Special Vigilance Committee, Madurai. The first respondent without analysing the explanation submitted by the petitioner had again simply placed reliance upon a vigilance report and the confidential report given by the District Registrar to hold that the petitioner had committed delinquencies alleged and proceeded to reject the appeal of the petitioner. It is also pertinent to note that the complainant *viz.*, the Registrar who alleged such delinquencies on the part of the petitioner was also not examined as a witness nor his complaint was also examined by the respondent.

8. For the reasonings and findings arrived at, I am of the considered view that there has been a clear violation of principles of natural justice in the proceedings that had been initiated against the petitioner. In such event, the doors open to this Court is to set aside the order impugned and remand the matter back to the authorities for conducting a fresh *denova* enquiry after providing due opportunity to the petitioner by examining the witness. However, considering the fact that the incident had occurred nearly 25 years back, there would be no useful purpose in remitting the matter back to the respondent for a fresh *denova* enquiry. The allegations made in the complaint are serious in nature, but not supported by any material evidences except for the report of the Vigilance Team and the confidential report of the District Registrar concerned. Even the said reports would have to be proved in the manner known to law by examining the authors of the said reports providing opportunity to the petitioner for a cross examination. In such event, I am of the view that instead of remitting the matter back to the authority concerned, it would be just, proper and necessary that the period of cancellation of the licence to be treated as suspension of licence.

Therefore, the period from 2001, in which year the licence was cancelled to till the date of this order which did not entitle the petitioner to work as a Document Writer shall be treated as a "suspension of the licence" which in my view would be an appropriate punishment.

9. For the aforesaid reasons, the punishment that had been imposed on the petitioner is modified to a punishment of suspension of the petitioner's licence from 11.04.2001, i.e., that date on which the licence was cancelled till today. In view of the order, the licence of the petitioner shall stand restored.

10. With the aforesaid directions, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

**04.12.2024**

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

abr

**K.KUMARESH BABU, J.**

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To

1.The Principal Secretary to Government,
State of Tamil Nadu,
Commercial Taxes and Registration Department,
Fort St. George, Chennai-600 009.

2.The Tamil Nadu Additional Inspector
General of Registration (Chits), Chennai-600 028.

**W.P.(MD) No.21770 of 2017**

**Dated: 04.12.2024**