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THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 15.07.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.P.(MD)No.29026 of 2023

Arasu Pokkuvarathu Madurai Thozhilar Sangam,
Rep. By its Vice President,
V.Pitchai, S/o.Veeranan,
Reg. No.157/MDU CITU,VP Chinthan Ninaivagam,
Plot No.13, VOC 2nd Street,
Arul Nagar, Bye Pass Road,
Madurai - 625 016. ... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. By its Secretary to Government,
Transport Department,
Fort St. George,
Chennai - 9.

2.The Directorate of Vigilance and Anti Corruption (DVAC),
No.293, MKN Road,
Alandur, Chennai - 600 016.

3.The Superintendent of Police,
Southern Range,
Vigilance and Anti-corruption,
Directorate of Vigilance and Anti corruption(DVAC),
Chennai - 600 016.

4.Arumugam ... Respondents

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PRAYER: Writ petition has been filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus, calling for the records pertaining to the impugned order passed by the third respondent in Petition No. 8752/2023/TNSTC/MU dated 02.08.2023 and quash the same and consequently direct the respondents to enquire into allegations made against 4th respondent independently by examining the petitioner and other witnesses and also about assets acquired by him and his family members and to proceed further under the provisions of various criminal enactments including registration of criminal case against the fourth respondent by considering petitioner's complaint dated 21.07.2023.

For Petitioner : Mr.T.Arun

For R1 : Mr.Veera Kathiravan,
Additional Advocate General
Assisted by Mr.A.Kannan

For R2 & R3 : Mr.S.Ravi
Additional Public Prosecutor

For R4 : M/s.Porkodi Karnan
for M/s.Polax Solutions

* * * * *

ORDER

This writ petition has been filed to issue a writ of certiorarified mandamus, calling for the records pertaining to the impugned order passed by the third respondent in Petition No.8752/2023/TNSTC/MU dated 02.08.2023, and quash the same and consequently directing the respondents to enquire into allegations made against 4th respondent independently by examining the petitioner and other witnesses and also about assets acquired by him and his family members and to proceed further under the provisions of various criminal

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enactments including registration of criminal case against the fourth respondent by considering petitioner's complaint dated 21.07.2023.

2.The case of the prosecution is that the petitioner's union received a letter from one Chandran, Conductor of the Transport Corporation, wherein he has quoted number of instances, where the 4th respondent has received illegal gratifications. In pursuance of the same, the petitioner union collected information from various sources and submitted a complaint to the 1st respondent on 21.07.2023, seeking to take action against the Managing Director of State owned Corporation namely TNSTC (Madurai) Limited. The said Managing Director, ever since he took up the office of the Managing Director, of the Corporation, has been indulging in various corrupt practices by receiving illegal gratifications for transfers from one region to another, for giving promotion and to do favour in the disciplinary action initiated against the employees. The said complaint was sent by registered post on 21.07.2023. The 2nd respondent upon receiving the same had forwarded to the 3rd respondent. The 3rd respondent by his proceedings in petition No.8752/2023/TNSTC/MU dated 02.08.2023 informed that the scrutiny of the complaint revealed that the contents of the Petition was general in nature and requires verification of documents by the concerned departments and hence the 3rd respondent has

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forwarded the said complaint to the very same accused officer namely Mr.Arumugam, the Managing Director of Tamil Nadu State Transport Corporation (Madurai) Limited, Madurai. The 3rd Respondent has not verified the allegations by inspecting the records available in the office of Transport Corporation and mechanically forwarded the said complaint to the Managing Director of the very same Corporation against whom the complaint has been lodged. Aggrieved over the same, this writ petition has been filed before this Court.

3. Aggrieved over the same, the present writ petition has been filed.

> *ii. The first respondent is directed to conduct investigations and enquiries in order to ascertain the asset details of all the higher officials working in the management cadre as well as their spouse and dependants with reference to the declarations given by them in the service records and discrepancy, disproportionate wealth or otherwise, all suitable prosecutions and disciplinary proceedings are to be initiated by following the procedures contemplated under law. Such an exercise is to be done by the first respondent within a period of four months from the date of receipt of a copy of this order.*

4.The learned Additional Advocate General through the counter made the following submissions :-

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IN THE HIGH COURT OF JUDICATURE AT MADRAS
MADURAI BENCH
(SPECIAL ORIGINAL JURISDICTION)
W.P. (MD)No.29026 of 2023

Arasu Pokkuvarathu Madurai Thozhilar Sangam
Rep by its Vice President,
V Pitchai, S/o Veeranan,
REG No 157/MDU CITU, VP Chinthan Nagarvagam,
Plot No 13, VOC 2nd Street,
Arul Nagar, Bye Pass Road,
Madurai 625 016.

...Petitioner

Versus

1 The Government of Tamil Nadu
Rep. by its Secretary to Government,
Transport Department,
Fort St George, Chennai-9.

2 The Directorate of Vigilance and Anti Corruption (DV&AC),
No 293, MKN Road,
Alandur, Chennai- 600 016.

3 The Superintendent of Police,
Southern Range
Vigilance and Anticorruption
Directorate of Vigilance and Anti Corruption (DV&AC),
Chennai- 600 016.

4 A Arumugam,
The Managing Director,
Tamil Nadu State Transport Corporation(Madura) Limited,
Madurai – 600 016.

...Respondent

COUNTER AFFIDAVIT FILED ON BEHALF OF THE FIRST RESPONDENT

I, Gracie Joseph, W/o P.K Joseph, Indian aged 58 years, Residing at No 6, 6th Main Road, Jawahar Nagar, Chennai - 600 082 do hereby solemnly affirm and sincerely state as follows:-

I am presently working as the Deputy Secretary to Government, Transport Department, Government of Tamil Nadu and I am acquainted with the facts of the

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Comp: All

Under Secretary to Government (Tpt.)
Transport Department
Secretariat, Chennai-600 009

Gracie Joseph
Deputy Secretary to Government
Transport Department
Secretariat, Chennai-600 009

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case from the available records. On behalf of the Additional Chief Secretary to Government, Transport Department, Government of Tamil Nadu, I have been authorized to file this Counter Affidavit and I am filing this Counter Affidavit on behalf of the first respondent herein.

2. It is submitted that the petitioner has filed this Writ Petition praying for, Writ of Certiorarified Mandamus, or any other appropriate writ or order or direction in the nature of writ, calling for the records pertaining to the impugned order passed by the 3rd Respondent in Petition No.8752/2023/TNSTC/MU dated 02.08.2023, quash the same and consequently directing the Respondents to enquire into allegations made against 4th Respondent independently by examining the petitioner and other witnesses and also about assets acquired by him and his family members and to proceed further under the provisions of various criminal enactments including registration criminal case against the 4th Respondents by considering petitioner's complaint dated 21.07.2023. The petitioner has filed Additional Affidavit praying to direct the 3rd Respondent to interrogate 4th Respondent as well as the certain employees of Tamil Nadu State Transport Corporation (Madurai) Limited by considering petitioner's complaint dated 19.02.2024. We have perused the Affidavits of petitioner filed in support of this Writ Petition and deny all the averments made therein. The petitioner is put to strict proof of all the allegations made. This Writ Petition is not maintainable both in Law and on facts and is liable to be dismissed. Our non-denial of each and every allegation of the petitioner in each and every para of the Affidavit under Reply would not amount to admission of the same. The 1st Respondent reserve their right to file Additional Counter

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Under Secretary to Government (T&A)
Transport Department
Secretariat, Chennai-600 009

Deputy Secretary to Government
Transport Department
Secretariat, Chennai-600 009

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Affidavit, if required and if so advised, We submit the following Contentions without prejudice to one and other.

3. With reference to averments made in the paras 3 and 9 of the Affidavit, it is submitted that the petitioner has sent a complaint petition dated 21.07.2023. In the petition it has been stated that certain irregularities taken place in Tamil Nadu State Transport Corporation (Madurai) Limited such as inter and intra region transfer of Assistant Engineer, Assistant Manager and Deputy Manager of the Corporation, promotion of the officials of the Corporation, disposal of disciplinary cases, disposal of Appeal Petition of the disciplinary cases, Non-compliance of Government instructions issued in Letter No.8781/D1/2019-4, dated 29.06.2021 in respect of property statement of officers of all State Transport Undertakings. The petitioner has accused the 4th Respondent, the Managing Director, Tamil Nadu State Transport Corporation (Madurai) Limited for receiving illegal gratifications for the above irregularities and requested to take action against the 4th Respondent. However, the petitioner has not furnished any material evidence for the above charges.

4. It is submitted that the 1st Respondent has initiated action on the complaints of the above said petition and the 4th Respondent has been directed to furnish the copies of relevant documents related to inter and intra region transfer of Assistant Engineers, Assistant Managers and Deputy Managers of the Corporation, promotion of the official of the Corporation, disposal of disciplinary cases, disposal of Appeal Petition of the disciplinary cases, property statement of in respect of officers of the Corporation.

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Under Secretary to Government
Transport Department
Secretariat, Chennai-600 009

Deputy Secretary to Government
Transport Department
Secretariat, Chennai-600 009

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5. It is submitted that, on examination of the relevant documents as furnished by the 4th Respondent, it has been found that some frequent transfers has been made in Tamil Nadu State Transport Corporation (Madurai) Limited by the 4th Respondent. Therefore, he has been directed to exercise moderation and restraint respect of transfer the officials in Tamil Nadu State Transport Corporation (Madurai) Limited vide Government Letter No.e4200/D/2023-3, dated 13.02.2023.

6. It is submitted that, in respect of the complaint on irregularities in promotions at the level of Manager Cadre Officers, it is submitted that as per Rule 58 of the Common Service Rules of State Transport Undertakings, the Managing Director is the appointing authority for the post of Assistant Manager. For the other Manager Cadre posts the Managing Director with prior approval of the Board and / or the Government wherever necessary is the appointing authority. From the documents furnished by the 4th Respondent, it is revealed that during the period from 21.04.2022 to 21.07.2023 (date of the complaint) one promotion has been issued in the Managerial cadre based on the resolution of the 272nd Board Meeting held on 15.03.2023.

7. It is submitted that regarding the complaint on disposal of appeals on disciplinary cases, it is submitted that the 4th Respondent is the Appellate Authority in respect of supervisory and other lower cadre officials. The petitioner had not produced any evidence in respect of irregularities in disposal of appeals on disciplinary cases by the 4th Respondent.

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Remarks: Nil

Under Secretary to Government (Tpt.)
Transport Department
Secretariat, Chennai-600 009

Deputy Secretary to Government
Transport Department
Secretariat, Chennai-600 009

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8. With reference to averments made in the paras 4 to 7 of the Affidavit, it is submitted that the 2nd Respondent has sent the original petition dated 21.07.2023 to the first Respondent vide Pet No.8752/2023/TNSTC/MU dated 28.12.2023 by stating that the content of the petition is general in nature and hence the 2nd Respondent has not conducted any enquiry.

9. With reference to averments made in the para 8 of the Affidavit and para 7 of the Additional Affidavit, it is submitted that as per the orders of this Hon'ble Court in WP(MD)No.14622 of 2019 dated 01.07.2019, detailed instructions have been issued to Managing Directors of all State Transport Undertakings to follow Rules 19 and 20 of Tamil Nadu State Transport Corporation Employees' Conduct Rules without any deviation. As per the above said rules, every employee of State Transport Undertakings should obtain prior permission from competitive authority for purchasing of movable / immovable property and also construction of house. In this regard, it is submitted that service records of officers and employees of State Transport Undertakings are maintained at the corporation. Hence, it is duty of the Managing Director concerned to watch whether property statements have been recorded in the Service Books periodically.

10. With reference to the paras 5 and 6 of the Additional Affidavit it is submitted that it is the responsibility of the 2nd Respondent to take appropriate action against allegations made therein the petition dated 19.02.2024.

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Under Secretary to Government (Spl.)
Transport Department
Secretariat, Chennai-600 009

Deputy Secretary to Government
Transport Department
Secretariat, Chennai-600 009

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11. It is submitted that all original files related to transfer of officials as received from the 4th Respondent were returned. Further the petitioner have accused the 4th Respondent for obtaining illegal gratification in transfer of officials, Disciplinary cases and others. Hence, it is humbly submitted that based on the evidence submitted by the petitioner, Appropriate Investigation Authority i.e. the 2nd Respondent have already concluded that the allegations are general in nature.

Under these circumstances, it is therefore, respectfully prayed that this Hon'ble Court may be pleased to dismiss the above W.P.(MD)No.29026 of 2023, as devoid of merits, and thus render justice.

Deputy Secretary to Government
Transport Department
Secretariat, Chennai-600 009

Solemnly affirmed at Chennai
This the 21st day of March '2024 and
signed her name in my presence

BEFORE ME

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Under Secretary to Government (I/c)
Transport Department
Secretariat, Chennai-600 009

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5.The learned Counsel appearing for the petitioner submitted that they have not followed the procedure as contemplated.

6.The learned counsel appearing for the private respondent has also specifically denied the averments stated in the affidavit. As per counter affidavit, the Secretary to Government has to look into the allegations and there is no need to consider the same.

7.This Court has carefully considered the rival submission on either side and perused the materials available on record.

8. As rightly argued by the learned Additional Advocate General, there is only sweeping allegation against the managing director of the State Transport Corporation. There was no prima facie material available to look into the allegation. In the said circumstances, this court finds no merit to entertain this writ petition.

9. However, it is open to the petitioner to file the petition with proper material and redress the grievance.

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10. With the above said observations, this Writ Petition stands dismissed.

No cost.

15.07.2024

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

To

1.The Secretary to Government,
The Government of Tamil Nadu,
Transport Department,
Fort St. George,
Chennai - 9.

2.The Directorate of Vigilance and Anti Corruption (DVAC),
No.293, MKN Road,
Alandur, Chennai - 600 016.

3.The Superintendent of Police,
Southern Range,
Vigilance and Anti-corruption,
Directorate of Vigilance and Anti corruption(DVAC),
Chennai - 600 016.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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K.K.RAMAKRISHNAN, J.

RJR

W.P.(MD)No.29026 of 2023

15.07.2024