



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. Nos. 23566 to 23568 of 2018

and

W.M.P. Nos. 27517 to 27519 of 2018 and 18229 of 2022

S.Anbuselvam ... Petitioner in W.P. No. 23566 of 2018

N.Kalithasan ... Petitioner in W.P. No. 23567 of 2018

T.Vivekananthan ... Petitioner in W.P. No. 23568 of 2018

-VS-

The Senior Regional Manager/District Revenue Officer,
Tamil Nadu Civil Supplies Corporation,
Nagapattinam Region, Collectorate Complex,
Nagapattinam - 611 001.

... Respondent in all W.P.s

Common Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue Writs of Certiorari, calling for the records of the respondent relating to the common order passed in Ref. Na. Ka. No. P4/001015/2018 dated 24.07.2018, quash the same.

For Petitioners : Mr.V.Sanjeevi (in all W.P.s)

For Respondent : Mr.C.Selvaraj, Panel Advocate
(TNCS Corpn.) (in all W.P.s)



COMMON ORDER

WEB COPY These writ petitions have been filed challenging the common order of the respondent passed in Ref. Na.Ka. No. P4/001015/2018 dated 24.07.2018.

2. Heard Mr.V.Sanjeevi, learned counsel for the petitioners and Mr.C.Selvaraj, learned Panel Advocate for the Tamil Nadu Cements Corporation Limited and perused the materials placed on record, apart from the pleadings of the parties.

3. The petitioners who are working as Junior Quality Inspector and Assistant Quality Inspector during the relevant point of time in the then Nagapattinam District (now Mayiladuthurai District) have been served with the recovery order dated 24.07.2018 on the allegations that these petitioners had caused a loss of Rs.8,87,300/- by fraudulently selling 4,670 cement bags, which were stocked under 'Amma Cements Supply Scheme'. The Government of Tamil Nadu has introduced a scheme by name 'Amma Cements Supply Scheme' for supplying the same to the lower and middle income groups at a concessional rate of Rs.190/- per bag and issued a Government Order in G.O.Ms. No. 188, Industries (MID.2) Department dated 11.12.2014 in view of the soaring cement price at the relevant point of time.



4. The Government appears to have thought it fit to introduce the scheme to

the lower and middle income group who are involved in constructing their houses. The scheme contemplates certain eligibility criteria for availing the benefits by the public. The Tamil Nadu Cement Corporation who was the Nodal Agency for implementing the scheme shall procure 2,00,000 Mts of PPC cement per month from the seven designated Private Cement Manufacturers in Tamil Nadu as listed in the annexure to this order at the rate of Rs.185/- per cement bag (50 kg) and the same will be sold through the respondent corporation to the eligible public at Rs.190 per bag. This is inclusive of VAT. The petitioners who were working as junior quality inspector and the assistant quality inspector in the designated godown have sold the cement bags in the open market at the rate of Rs.390/- per bag by preparing a bogus list. The inspection revealed that pseudo suit names have been included in the certificates issued by the Village Administrative Officers and these petitioners also played an active role by joining hands with others and managed to sell the cement bags by committing fraud and enriched themselves, unlawfully.

5. The learned counsel for the petitioner submitted that even though fraud has been played against the petitioner, there is no loss caused to the corporation /Government as there was no pecuniary loss and the price fixed for the cement



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bags, which were sold, have been remitted. Despite the show cause notice has been issued against the six persons, the order of punishment is issued against only these petitioners without stating any reasons as to why the other three persons were not held responsible. As per the scheme, the petitioners are not incharge of the godown and only godown Superintendent alone can be incharge and without his permission, the petitioners cannot sell the bags according to their whims.

6. The learned counsel for the respondents submitted that as the cement bags have been sold at a higher price than the Government fixed price and the petitioners have enriched themselves, the recovery order has been issued. It is further stated that on the very same allegations, the disciplinary action has also been taken against the petitioners and they have been imposed with the punishment.

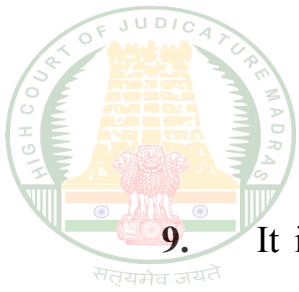
7. The learned counsel for the respondents submitted a list of Village Administrative Officers who had given false certificate in the names of bogus persons and with their connivance the petitioners could execute the fraudulent acts. As per Chapter V of the Tamil Nadu Civil Supplies Corporation Limited, even the penalty of recovery at the end of the disciplinary proceedings can be



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made only when there is a pecuniary loss caused to the Corporation by negligence or breach of regulation or failure to follow instructions. The technical arguments advanced by the learned counsel for the petitioner is that there is no loss caused to the Corporation as the Government fixed price for the 4670 bags have been given to the credit of the Corporation without any deficit.

8. The recovery order has not been issued as a penalty attached to the disciplinary action initiated against the petitioners. Even the show cause notice have been issued separately and the charges have been framed irrespective of the issuance of the show cause for recovery. The Corporation has found that a major scam has taken place with the connivance of the many Village Administrative Officers and the petitioners or others. In such case, criminal action ought to have been taken. If so, the proceeds of the crime [the excess money enriched out of selling the cement bags fraudulently] would have been the property liable to be confiscated to the Government. Even though the right reasons are assigned by the respondents, the process has been taken wrongly, instead of initiating criminal action against the individuals who are responsible for the fraud, forgery and impersonation, a lenient view is taken by leaving the matter closed with the disciplinary action above.



9. It is submitted by the learned counsel for the petitioners that they had

given detailed explanations to the show cause notice and the impugned order of recovery has been passed without considering their explanations. It would have been appropriate if the respondents had conducted an enquiry before issuing the recovery order apart from the technical nuances involved in attributing loss to the respondent corporation. As inadequate action has been taken for a serious issue, that has been taken advantage by the petitioners and suspected others. It is for the respondents to take a call and initiate appropriate action. Insofar as the recovery order is concerned, the order does not state how the responsibility has been fixed upon the petitioners alone by leaving other persons whose name were found place in the initial show cause notice. Without basing upon any detailed enquiry after giving proper opportunity to the petitioners, the order has been passed. As the respondents have collected certain particulars, like the list of Village Administrative Officers who have given false certificate, it would have been appropriate, had there been any oral enquiry about recovery by giving fair opportunity to the petitioners to make their submissions on the basis of the materials relied by the respondents.

10. Only on these limited aspect and without going into the aspect of the illegal enrichment enjoyed by any of the individuals by selling the cement bags



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given under the scheme of the Government in the open market, the impugned order is liable to be set aside. However, it would not preclude the respondents or the Government from initiating any further appropriate action or initiating any further enquiry on the alleged scam.

11. Accordingly, these writ petitions are allowed and the order passed in Ref. Na. Ka. No. P4/001015/2018 dated 24.07.2018 of the respondent is set aside. Consequently, the connected Miscellaneous Petitions are closed. No costs.

20.02.2025

Index: Yes/No
Internet: Yes/No
Speaking /Non-speaking order

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R.N.MANJULA, J.

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To

The Senior Regional Manager/District Revenue Officer,
Tamil Nadu Civil Supplies Corporation,
Nagapattinam Region, Collectorate Complex,
Nagapattinam - 611 001.

W.P. Nos. 23566 to 23568 of 2018

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