BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON 03.12.2024	PRONOUNCED ON 28.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.1769 of 2017 &
WMP (MD) Nos.1457 & 1458 of 2017

Fr.K.George, … Petitioner

vs.

1.The Senior Superintendent of Post Offices,
Kanyakumari Division,
Nagercoil – 629 001.

2.The Sub Post Master,
Mulagumoodu Post Office – 629 167,
Kanyakumari District.

3.The Sub Post Master,
Neyyoor Post Office,
Neyyoor – 629 802,
Kanyakumari District. ... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned letter sent by the first respondent in No.L/RNP/65/13-14, dated at Nagercoil 629001 the 29.12.2016 and quash the same as illegal and consequently direct the 1st respondent herein to renew the concessional postal license of Tamil Magazine 'Vidiyalai Noki' (Regn No.TNTAM/2013/52515) without any hindrance and pass such further or other orders.

For Petitioner : Mr.D.Srinivasaraghavan

For Respondents : Mr.G.Rajaraman

ORDER

This Writ Petition had been filed to quash the impugned order passed by the first respondent and to direct the first respondent to renew the concessional postal licence of Tamil Magazine without any hindrance.

2. Heard Mr.D.Srinivasaraghavan, learned counsel appearing for the petitioner and Mr.G.Rajaraman, learned counsel appearing for the respondents

3. The learned counsel for the petitioner would submit that the petitioner is a publisher of the Tamil monthly Magazine published monthly. A declaration as prescribed under Form-I, as provided under the Press and

Registration of the Books Act, 1867, was made by the then publisher and an acknowledgment has also been issued by the Additional District Registrar and District Revenue Officer, Kanyakumari District and the said declaration has also been forwarded to the Registrar of Newspaper of India, Ministry of Information and Broadcasting. A further declaration was also made by the publisher of the Magazine on 08.07.2002 and a certificate to that effect was also issued by the Sub-Divisional Magistrate and the Revenue Judicial Officer, Padmanabhapuram in its certificate, dated 24.03.2023. By a communication dated 05.11.2008, Postal Registration number was also allotted by the first respondent upon which the permission was also granted by the first respondent in its communication, dated 21.10.2009. By communication dated 04.01.2013, the publisher of the Magazine was called upon to furnish the certificate registration issued by the Registrar of Newspaper of India, failing which the concessional rates would be stopped. By a further communication dated 26.10.2013, the petitioner was informed that the Magazine was not entitled for concessional rates for the period from 30.06.2012 to 31.12.2012 and had been posted without a valid registration certificate issued by the Registrar of Newspaper of India, New Delhi and was called upon to pay the shortfall of difference, which was calculated at the sum of Rs.3,82,500/-. Incidentally, a certificate of Registration was issued by the Registrar of Newspaper of India during October 2013 and thereafter, the petitioner had been enjoying the benefits of concession. However, the demand was persistent for the shortfall, as claimed in the communication, dated 26.10.2013. He would submit that the petitioner had filed its declaration as required under the Enactment and it is for the Authority to grant certificate of registration. Once the declaration has been made and forwarded to the concerned Authority and if the certificate has not been granted, it is deemed to have been granted only based upon which the concession has been extended to the petitioner's publication.

4. He would further submit that a valid registration was made, as it was registered newspaper by the first respondent as early as in the year 2008 and therefore, they cannot now come to a conclusion that there was no valid registration. Having issued a registration for availing the concession, the respondents are now estopped from claiming such concession, was bad that too without rescinding the concession given to the petitioner. In such an event, he would submit that the entire claim made by the respondent by this length of time is wholly unwarranted.

5. Mr.G.Rajaraman, learned Standing Counsel appearing on behalf of the respondents would submit that to avail concessional postal tariff, the newspaper had to register themselves with the Registrar of Newspaper of India, New Delhi under the Press and Registration of Books Act, 1867 and only thereafter, they have to register with the competent postal Authority. The RNI and the Postal Registration numbers are mandatory for availing concessional postal rates. The publication of the petitioner was granted with a registration for posting for the calendar years 2003-04 and 2005 by proceedings dated 09.07.2003 and the same was also extended further by proceedings dated 19.01.2006 for the year 2006-08 and similarly, by the proceedings dated 05.11.2008 for the calendar year 2009-11 and such registration was cancelled on 30.01.2014, for non-submission of certificate of registration issued by the RNI. He would further indicate that the certificate of registration was given by the RNI only on 10.10.2013 and therefore, the petitioner was not entitled for concession rates prior to the said date for which the Department was entitled to collect the difference in shortfall in postal levy. Any violation of the conditions would also entitle the Department to withdraw the concession that had been given to the publisher. Since, during the period 30.06.2004 to 21.12.2012, they did not

have the RNI registration, they were not entitled for the concession and therefore, there arose a shortfall that the Department was entitled to collect the postal rates from the publisher and this shortfall cannot be disputed to by the petitioner, as admittedly the petitioner did not have a RNI certificate till 2013. Hence, he would submit that there was no infirmity in the order passed by the respondents.

6. I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

7. Admittedly, the petitioner had been publishing monthly Magazines for which he had also filed a declaration, as required under Section 5 of the Press and Registration of Books Act, 1867. He had also produced the proof of such declaration as acknowledged by the concerned authority prescribed under the Act.

8. The Postal Department had also considered the claim of the petitioner and had been permitting him to avail the concessional tariff, which had been renewed periodically. The petitioner had availed the said

concession given by the Postal Department and had awakened out of the blue to make a tall claim that the petitioner was not entitled for such concessional postal rates, causing loss of revenue to the Department. Even in the counter affidavit, it was not indicated that what action has been initiated against the officers for granting of such postal concession without the grant of RNI certificate.

9. A perusal of the order granting registration to the petitioner by allotting a postal registration number would indicate that the petitioner was under the category of a registered newspaper and that the publication has also been granted a registration number for posting under the registration for the various years.

10. The provisions of the Press and Registration of Books Act 1867 would indicate that a keeper of printing press have to make a declaration in a form as prescribed and that such declaration shall be authenticated by the Magistrate under his signature and official seal. Section 7 of the said Act envisages that an office copy of the declaration is to be a *prima facie* evidence that the publisher has a right/ title for such publications. Section

19C mandates that the Press Registrar shall as soon as practicable on receiving a copy of the declaration under Section 6 issue a certificate of registration. In the present case, admittedly, the declarations have been made by the petitioner magazine through its respective publishers at relevant points of time and the same had also been authenticated by the concerned Magistrate as provided under the Act and a copy being forwarded to the Registrar of Press. Further only in the year 2013 the certificate of registration have been granted.

11.A reading of the Act in its entirety would envisage that a declaration authenticated by the Magistrate itself is a valid document to substantiate the registration of a newspaper under the Act. The delay on the part of the Registrar of Press would not mean that the petitioner was not entitled for the benefits under the Postal Act for concessional rate of posting. Only based on such declarations, concessional rate of postal was given by the Postal Department periodically in favour of the petitioner.

12.In such view of the matter, I am inclined to hold that the demand made by the respondents against the petitioner to collect the shortfall on the ground that there was no certificate of registration is wholly arbitrary and without appreciating the Press and Registration of Books Act, 1867 in its proper prospective.

13.In fine, this Writ Petition is allowed and the impugned demand is set aside. Since the petitioner had made a deposit of 50% of the amount demanded pursuant to the interim order passed by this Court on 13.02.2017, there shall be a direction to the respondents to refund the said amount deposited by the petitioner. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

28.01.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation:Yes/No
Gba

K.KUMARESH BABU.,J.

Gba

To

1.The Senior Superintendent of Post Offices,
Kanyakumari Division,
Nagercoil – 629 001.

2.The Sub Post Master,
Mulagumoodu Post Office – 629 167,
Kanyakumari District.

3.The Sub Post Master,
Neyyoor Post Office,
Neyyoor – 629 802,
Kanyakumari District.

A Pre-delivery order made in
W.P.(MD)No.1769 of 2017 &
WMP (MD) Nos.1457 & 1458 of 2017

28.01.2025