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W.P.No.29707 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

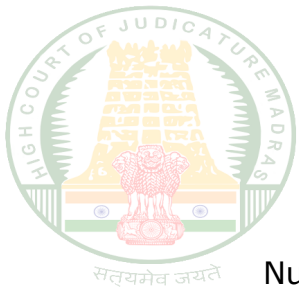
W.P.No.29707 of 2022

V.B.R. Menon

.. Petitioner

Vs

- 1 The Additional Chief Secretary to Government  
Transport Department  
Fort St. George, Secretariat  
Chennai - 600 009.
- 2 The Principal Secretary to Government  
Revenue and Disaster Management Department  
Fort St. George, Secretariat  
Chennai - 600 009.
- 3 The Director General of Police  
Dr.Radhakrishnan Salai, Mylapore  
Chennai - 600 004.
- 4 The Transport Commissioner  
Ezhilagam, PWD Estate, Chempauk  
Chennai - 600 005.
- 5 The Joint Chief Controller of Explosives  
A and D Wing Block 1-8 2nd Floor  
Shastri Bhavan No.26 Haddows Road



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Nungambakkam, Chennai - 600 006.

.. Respondents

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Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of declaration to declare that the 4th Respondent has no statutory power or jurisdiction to hear and decide the statutory appeals filed under Rule 154(2) of the Petroleum Rules, 2002 and consequently the orders passed by the 4th Respondent while acting as Appellate Authority under Rule 154 (2) of the Petroleum Rules, 2002 shall be null and void for want of jurisdiction.

For the Petitioner : Mr.V.B.R.Menon  
Party-in-Person

For the Respondents : Mr.Karthik Jagannath  
Government Advocate  
for respondents 1 to 4

: No appearance  
for 5<sup>th</sup> respondent

### ORDER

(Order of the court was made by the Hon'ble Chief Justice)

Heard Mr.V.B.R.Menon, the petitioner appearing in person; and Mr.Karthik Jagannath, learned Government Advocate for respondents 1 to 4.



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2. The petitioner seeks a declaration that the fourth respondent has no statutory power to hear and decide the appeals filed under Section 154(2) of the Petroleum Rules, 2002 [for brevity, "*the Rules of 2002*"]

3. According to the petitioner, appearing in person, G.O. (Ms.) No.1074, dated 25.5.1983, has been issued under the Petroleum Rules, 1976. The said Rules of 1976 are repealed with effect from 13.3.2002 by virtue of Rule 202 of the Rules of 2002. In view of that, the fourth respondent, appointed pursuant to G.O.(Ms.) No.1074, dated 25.5.1983, would not be the appropriate authority to hear and decide the appeals. The Appellate Authority ought to be the immediate superior authority to any of the District Authorities as defined in Rules 2(x) and 2(xi) of the Rules of 2002.

4. According to the party in person, the Petroleum Act, 1934 and the Rules of 2002 are the subject-matter of the Union



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List and, as such, the State Government has no authority to modify the same by way of a government order.

5. Mr.Karthik Jagannath, learned Government Advocate, submitted that the fourth respondent is not hearing any appeals and within a period of twelve weeks the Appellate Authority, as contemplated under the Rules of 2002, would be notified.

6. Rule 154(2) of the Rules of 2002 reads thus:

*"154. Appeals -*

*(1) An appeal shall lie against any order refusing to grant, amend or renew a licence or cancelling or suspending a licence to-*

*(i) the Central Government, where the order is passed by the Chief Controller;*

*(ii) the Chief Controller, where the order is passed by a Controller;*

*(iii) the immediate official superior to the District Authority, where the order is*



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*passed by the District Authority;*

*(iv) the immediate official superior to officer appointed under rule 33 in the case of vessels licensed for the carriage of petroleum in bulk.*

*(2) An appeal against any order of the District Authority refusing to grant or cancelling a no objection certificate shall lie to the authority which is immediately superior to the said District Authority.*

*(3) Every appeal shall be in writing and shall be accompanied by a copy of the order appealed against, fee of rupees one thousand paid in the manner specified in rule 13 and shall be presented within sixty days of the order passed.*

*(4) The Appellate Authority shall dispose off the appeal within 60 days of the receipt of the appeal."*

7. Upon perusal of the aforesaid Rule, it is manifest that the Appellate Authority has to be one who is immediately superior to the District Authority. The fourth respondent herein



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is not superior to the District Authority. The said fact is also not disputed and debated by the respondents.

8. Rules of 2002 is a piece of subordinate legislation. The government orders cannot supplant or override the Rules framed. Moreover, G.O. (Ms.) No.1074, dated 25.5.1983, was issued prior to the enforcement of Rules of 2002. At the relevant time, the Rules of 1976 were in vogue. The said government order may be valid under the Rules of 1976. However, it is incumbent upon the State to notify the Appellate Authority in tune with and in consonance with the Rules of 2002.

9. It is now submitted by learned Government Advocate that the fourth respondent is not hearing the appeals.

10. In the light of that, the appointment of the fourth respondent as the Appellate Authority is set aside. The



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respondents shall notify the Appellate Authority in tune with the Rules of 2002 expeditiously and, as contended, within twelve weeks.

The writ petition stands allowed. There shall be no order as to costs. Consequently, W.M.P.No.29100 of 2022 is closed.

(S.V.G., CJ.)

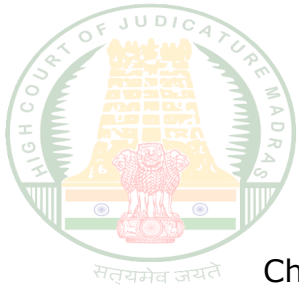
(D.B.C., J.)

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Index : Yes/No  
Neutral Citation : Yes/No  
sasi

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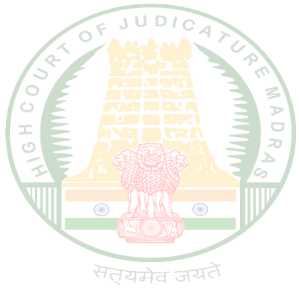
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