

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2015

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P.No.17154 of 2015
and M.P.No.1 of 2015

Ezhilarasan

... Petitioner

-Vs-

The Assistant Engineer,
Public Works Department,
Building Maintenance Section (Medical Services),
Thiruvavarur.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus to call for the records of the respondent in Letter No.Ko.7/2014-15/UPO (M.Pa) and to quash the order dated 13.05.2015 and to direct the respondent to allow the petitioner to conduct the Aavin Milk Stall in the Thiruvavarur Medical College Hospital Campus.

For Petitioner : Mr.R.Sivakumar
For Respondents : Mr.A.Kumar,
Special Government Pleader

O R D E R

The petitioner is a Franchisee of Aavin. Permission was given to the petitioner vide proceedings dated 09.04.2011 by the Medical Superintendent, Government Medical College Hospital, Thiruvavarur. By the impugned order, the respondent has informed that as per the Government Order passed in G.O.No.93 dated 25.03.2015, the parlour will have to be removed more so when the period is over. Challenging the same, the present Writ Petition has been filed.

2.The learned counsel for the petitioner submitted that the Government Order has no relevancy, but for the Government Order, the order impugned would not have been passed. The proceedings dated 19.04.2011 would show that the tenancy can be renewed once in three years. The respondent has construed an Aavin parlour with that of an canteen.

3.Per contra, the learned Special Government Pleader, based upon the counter affidavit filed, would submit that the petitioner has signed an agreement with the respondent for temporary occupation for a period of three years and the petitioner is liable to be vacated as per the Government Order passed.

4.A perusal of the order impugned would show that the petitioner has not been heard. Prima facie it appears that the Government Order does not have any application to a parlour of Aavin. A perusal of the Government Order would show that it is sought to be applied to the canteen. It is not the case that the petitioner is running a canteen selling products other than Aavin. The impugned order is passed without taking into consideration the proceedings of the Medical Superintendent dated 19.04.2011. Therefore, this Court is inclined to set aside the order impugned. Thus, the order impugned dated 13.05.2015 is hereby set aside, giving liberty to the respondent to issue notice to the petitioner to show cause as to why he should not be allowed to vacate, as the petitioner will have to be given an opportunity to give a reply. Thereafter, the respondent shall pass appropriate orders, on consideration of the petitioner's reply.

In the result, the Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To
The Assistant Engineer,
Public Works Department,
Building Maintenance Section (Medical Services),
Thiruvarur.

1 cc to Mr.Rajamathivanan , Advocate Sr.No.44987

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pmk.24.9.2015

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