

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2015

Date of Reserving the Order	Date of Pronouncing the Order
02.09.2015	07.09.2015

Coram

THE HON'BLE Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE

and

THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.27470 of 2015

&

M.P.No. 2 of 2015

J.Rajaram Varma

...Petitioner

Vs

- 1 Govt. of Tamilnadu
rep. by Secretary
Ministry of Local Administration,
Fort St. George, Chennai-600 009.
- 2 Director of Municipal Administration
and water Supply
Ezhilagam, Chepauk
Chennai-600 005.
- 3 District Collector
Dharmapuri District, Dharmapuri.
- 4 Dharmapuri Municipality
rep. by Commissioner
Dharmapuri
- 5 Mrs.Sumathi
Chairman
Dharmapuri Municipality
Dharmapuri

WEB COPY

6 D.N.C.Manivannan
Grand Avenue
(Near) Madura Bai Thirumana Mandapam
Salem Main Road, Dharmapuri 636 705.

7 D.N.C.Elangovan
Southern Railway Lane
Vanniyar Kalyana Mandapam Road
Dharmapuri.

...Respondents

Prayer :-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorified Mandamus, to call for the concerned records of the 4th respondent relating to the impugned notification dated 25.6.2015 published in Dinamani Daily dated 26.6.2015 inviting applications for grant of 10 to 15 acres of land within the Municipal limit of Dharmapuri municipality for shifting the Town & Moffusil bus stand from its existing place, to quash the same and for a consequential mandamus to the respondents 1 to 4 to continue the said bus stands at the existing place itself and to pass such further orders or directions this Honourable court deems fit in the interest of the traveling and other general public of Dharmapuri award cost.

For petitioner : Mr.N.G.R.Prasad
for M/s Row & Reddy
For Respondents : Mr.V.R.Kamalanathan- R1 to R5
Addl.Govt. Pleader
asstd. by Mr.V.Shanmuga Sundar, G.A.

O R D E R

The petitioner, a business man and President of District Committee of a Political party, has filed this Writ Petition designed as a Public Interest Litigation to quash the notification issued by the Dhamapuri Municipality dated 25.06.2015, inviting Applications for offering land measuring an extent of about 10 to 15 acres for shifting the Town and Moffusil bus stand from its existing place.

2.The petitioner would state that at present there are two bus stand adjacent to each other and one being the Moffusil bus stand and the other the Town bus stand. The Moffusil bus stand has been established in an extent of 3.973 acres and it has 52 bays and the

Town bus stand was established in the year 1996 in an extent of 1.76 acres and about 102 Town buses arrive and depart from the said bus stand. It is stated that the bus caters to the need of about 30,000 travelling public of the Municipality and it is adequate. It is stated that the Municipality has about 1 ½ acres of land which is being used as a Cycle Stand and this can also be used for the bus stand and the Cycle stand could be shifted to a near by location. Further, the petitioner would state that there are about 8,000 girl students studying within a walkable distance from the existing bus stand and about 5,000 boys are studying in the Higher Secondary School located nearby, the Government Offices are all situate in the near vicinity and whileso, the fifth respondent who is the Chairman of the Municipality, with a view to help the private respondents viz. 6th & 7th respondents, proposed to shift the bus stand to a different location for which purpose a resolution was moved in the Municipality which was defeated. The proposal was once again moved before Municipal Council on 19.03.2015 and it was not passed in the meeting. Whileso, in the meeting held on 17.4.2015, the Municipal Councillor has passed a resolution proposing to shift the bus stand and issued an advertisement calling for offers from persons who are willing to provide land for such purpose.

3.It is submitted that the said move by the fifth respondent is detrimental to the people of Dharmapuri Town and the subject matter was not in the agenda of the meeting dated 14.4.2015 and the move to shift the bus stand is only with a view to help the private persons, viz. the respondents 6 & 7, who are stated to own lands in the near vicinity where the proposed bus stand is to be located.

4.The learned counsel for the petitioner referred to the agenda of the meeting of the Municipal Council dated 17.3.2015, the agenda of the emergency meeting of the Council dated 19.03.2015 and the resolution passed in the said meeting. Reference was also made to the agenda of the meetings dated 13.04.2015, 17.04.2015 and the resolution passed thereon.

5.The learned counsel made elaborate reference to various news items which have been published in the English and vernacular New Papers stating that the shifting of the bus stand has been opposed by all the Councillors including the councillors of the Ruling party, but all of a sudden without even having an agenda for the said subject, the fifth respondent has passed a resolution without the mandatory three days notice and the same is illegal. Therefore, the learned counsel submitted that the impugned notification calling for

offers from the public to offer their lands for the proposed new bus stand is liable to be quashed.

6.We have heard Mr.N.G.R.Prasad, learned counsel for the petitioner and carefully perused the materials placed on record.

7.From the bunch of News paper reports placed in the typed set of papers, it is evidently clear that the opposition to the proposed shifting of the bus stand is by the Traders. Thus, the traders appear to be more worried about their business activities as there is likelihood of depletion in their business in the event the bus stand is to be shifted to a new location. In such circumstances, we are not inclined to entertain the writ petition filed under the guise of public interest litigation, where one section of businessmen want to resist the move of the Municipality to shift the bus stand, which should obviously be for the purpose of providing better facilities to the commuting public. Therefore, the interest of the public is paramount and the Municipality should work towards achieving the same.

8.The petitioner would state that the fifth respondent, the Chairman of the Municipality has surreptitiously brought about the resolution without mentioning the same in the agenda and the same was passed in the Municipal Council Meeting. We may note that the petitioner is a Politician and he holds a political Office as President of the District Committee of a Political Party. The petitioner in his representations, more particularly in the representation dated 21.5.2015, addressed to the Secretary, Municipal and Local Administration Department, has admitted that 33 Councillors of the Municipal Council of the Dharmapuri have voted in favour of shifting the bus stand. In such circumstances, if there is any dissent to such proposal by any of the elected members of the Municipal Council, it is for them to take up the matter in the manner provided under the provisions of the District Municipalities Act and for which purpose, we are not inclined to accept the plea raised by the petitioner by way of a Writ Petition under the guise of public interest litigation.

9.As stated earlier, the protest against the shifting of the bus stand is primarily by the traders. In fact on 28.4.2015, all the traders shut down their commercial establishments opposing the shifting of the bus stand to any other location. Thus, on the given facts and circumstances, we are not inclined to entertain the prayer sought for by the petitioner as a public interest litigation, considering the nature of the grievance focused by the petitioner.

10. Accordingly, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed

Sd/-
Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

rpa

To

- 1 The Secretary,
Govt. of Tamilnadu
Ministry of Local Administration,
Fort St. George, Chennai-600 009.
- 2 Director of Municipal Administration and water Supply
Ezhilagam, Chempauk
Chennai-600 005.
- 3 District Collector
Dharmapuri District, Dharmapuri.
- 4 The Commissioner
Dharmapuri Municipality
Dharmapuri
- 5 Mrs. Sumathi
Chairman
Dharmapuri Municipality
Dharmapuri

1 CC to M/s Row & Reddy, Advocate SR.No. 48171

1 CC to the Government Pleader, SR.No. 48441

SVI (CO)
PSI (18.09.2015)

W.P.No.27470 of 2015