

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2016

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

W.P.No.27119 of 2015
and M.P.No.1 of 2015

Mahalingam

... Petitioner

Vs.

The Commissioner,
Pollachi Municipality
Pollachi,
Coimbatore District.

... Respondent

Prayer: Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorari to call for the records relating to the proceedings of respondent in Na.Ka.No.h2/1312/2015 dated 31.7.2015 and quash the same.

For Petitioner : Mr.C.Veeraraghavan

For Respondent : Mr.R.M.Muthukumar, Govt. Advocate

O R D E R

The petitioner is operating a yarn doubling unit under the name and style of M/s.Ayyan Koil Textiles at Vadugapalayam, Pollachi and he is stated to be operating the said business for about 20 years and claims that in the same area there are such other 50 units. The petitioner states that he obtained necessary permission to run the unit and thereafter the Electricity Board has granted him service connection and also sanctioned additional load. Further, it is stated that the impugned action has been taken by the respondent at the behest of certain persons, who are inimical towards him and due to business rivalry and therefore it is stated that without affording an opportunity of hearing to the petitioner the petitioner has been directed to shift the unit.

2. From the written instructions given by the Commissioner, Pollachi Municipality to the Government Advocate, it is stated that the petitioner is running the yarn doubling unit. It is stated that the unit is within the municipal limits of Pollachi and he has not obtained permission to run the unit and installed more than 5 H.P motor and prior permission has to be obtained from the Municipality, which has not been complied by the petitioner and he has also not complied with the other requirements as submitted by the Government in G.O.Ms.No.565 dated 13.3.1962.

Further, it is stated that there is noise and air pollution in the area and several complaints have been received and therefore authority has issued the notice by invoking the power under Section 150 of the District Municipalities Act. Further, it is contended that complaints have been made by the local residents to the Pollution Control Board that there is air and sound pollution.

3. From the above facts placed before this Court, it is evident that the petitioner is operating within the municipal limits of Pollachi and there appears to be a ceiling of 5 H.P motor alone, which is the permissible limit. If the petitioner is operating the unit with 30 HP motor violating the conditions, then the petitioner cannot operate the unit. The petitioner has to satisfy the authorities stating that he is running the unit by complying with the conditions in all respects and it is only thereafter he can operate the unit.

4. Therefore, the petitioner is directed to treat the impugned proceedings as show cause notice and submit his reply within a period of ten days from the date of receipt of a copy of this order, by enclosing all supportive documents and on receipt of the same, respondent is directed to pass appropriate orders on merits and in accordance with law and if necessary, inspection can also be conducted. The said process shall be completed by the 1st respondent within a period of two weeks from the date on which the petitioner submits his reply and till then the petitioner shall not operate the unit.

With the said observation, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/
सत्यमेव जयते

Sub Asst. Registrar

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To

The Commissioner,
Pollachi Municipality
Pollachi, Coimbatore District.

1 cc to Mr.C. Veeraraghavan, Advocate, Sr. 14492
1 cc to Mr.R.M. Muthukumar, Advocate, Sr. 14504

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