

In the High Court of Judicature at Madras

Dated : 08.1.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.572 of 2016 and WMP.Nos.411 and 484 of 2016

D.Sathish Kumar

...Petitioner

Vs

1. The Commissioner, Corporation
of Coimbatore, Coimbatore.

2. The Health Officer, Corporation
of Coimbatore, Coimbatore.

....Respondents

PETITION under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the entire records pursuant to the impugned notice dated 25.8.2015 issued by the second respondent and quash the same.

For Petitioner : Mr.N.Chinnaraj

ORDER

The petitioner has filed this writ petition challenging the proceedings of the respondent Corporation dated 25.8.2015 issued under Sections 41(8), 44, 92 and 134(1) of the Tamil Nadu Public Health Act, 1939.

2. The allegation against the petitioner is that he is carrying on the activities of breaking iron scraps using heavy machinery causing noise pollution in the area.

3. The petitioner challenged the impugned proceedings on the ground that it has been issued without conducting any inspection and without affording an opportunity to the petitioner and that the same is in violation of the principles of natural justice. Furthermore, it is submitted that the petitioner has registered himself with the Department of Industries and Commerce as a small scale industry and that he is also remitting professional tax and carrying on the business for the past ten years. It is also contended that there are several other units in the area and the petitioner alone has been singled out. The petitioner apprehends that the unit will be sealed. Therefore, the petitioner is before this Court.

4. On a perusal of the impugned order, it is seen that there is no reference to any inspection conducted prior to the issuance of the impugned proceedings. Even assuming that a surprise inspection was conducted, principles of natural justice would require that the petitioner should be put on notice to abet the nuisance or violation, which, according to the respondents, has been committed by the petitioner. However, that has also not been done. Hence, the respondents cannot proceed further with the impugned proceedings.

5. For the reasons stated above, this Court is not inclined to quash the impugned proceedings. But, this Court directs the petitioner to treat the impugned proceedings as a show cause notice and submit his representation within a period of 15 days from the date of receipt of a copy of this order. On receipt of such representation along with necessary documents, the second respondent shall conduct an inspection of the petitioner's unit as well as the other units, which are alleged to have been functioning in the neighbouring area and thereafter proceed in accordance with law. Till final orders are passed, the impugned notice shall not be enforced.

6. The writ petition is accordingly disposed of. Consequently, the above WMPs are closed.

s/d-
Assistant Registrar(CS-VII)

True Copy

Sub-Assistant Registrar

To

- 1.The Commissioner, Corporation of Coimbatore, Coimbatore.
- 2.The Health Officer, Corporation of Coimbatore, Coimbatore.

+ 1 cc to Mr.N.Chinnaraj, Advocate SR 1588

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2016

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