



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 14.12.2016
CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P(MD)No.23954 of 2016

and

W.M.P(MD)Nos17285 and 17286 of 2016

A.Jothimani

..Petitioner

Vs

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Commissioner,
Aruppukkottai Municipality,
Virudhunagar District.

3.The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Virudhunagar District,
Virudhunagar.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records on the file of the second respondent in connection with the impugned order/final notice passed by him in his proceedings in Notice No.03/2016/V, dated 22.11.2016 and to quash the same as illegal and ultra vires.

For Petitioner :M/s.G.Thalaimutharasu

For Respondents :Mr.A.Muthukaruppan

1 and 2 Addl.Govt.Pleader

ORDER

The Petitioner is running a flour mill. The impugned order, dated 22.11.2016 came to be issued directing the Petitioner to close the flour mill within three days and intimate the same to the second respondent, on the reason that the said flour mill causes noise pollution inspite of repeated notices.

2.Mr.A.Muthukaruppan, learned Additional Government Pleader takes notice for the respondents.

3.By consent of both parties, the main Writ Petition is taken up for disposal, at the admission stage itself.



4.Mr.G.Thalaimutharasu, learned counsel appearing for the Petitioner submitted that even though the Petitioner has made a request for converting the building into a concrete building so as to prevent the noise pollution, such request of the Petitioner is yet to be considered by the very same second respondent. Therefore he submitted that the present proceedings without considering his request for conversion of the building is in violation of principles of natural justice.

5.This Court, at this stage, is not inclined to go into the merits of the contentions raised by the writ petitioner, as it is seen that the petitioner was given notice as early as on 4.7.2016 followed by another notice, dated 20.10.2016. No doubt, the Petitioner had made some replies to those notices. However, the fact remains that the noise pollution continues. As it is contended by the learned counsel that such noise will be reduced if the building is permitted to be converted as a concrete structure, it is for the second respondent to consider the said request. Therefore, the second respondent is directed to treat the impugned proceedings, as the final show-cause notice issued to the petitioner and consequently to consider the reply given by him on 25.11.2016 as explanation given to the above said show-cause notice. Accordingly, the second respondent shall pass orders on the explanation given by the petitioner on merits and in accordance with law, also by considering his request for converting the building as a concrete building.

6.With the above observation and direction, the Writ Petition is disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Commissioner,
Aruppukkottai Municipality,
Virudhunagar District.



3.The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Virudhunagar District,
Virudhunagar.

+1 cc to M/S Special Government Pleader, Sr No.80623

+1 cc to Mr.G.Thalaimutharasu, Advocate, Sr.No:80676

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