

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2017

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THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.21577 of 2017
and W.M.P.No.22567 of 2017

M/s.T.S.Agency

S.No.239/4G/ 204

Maruthanayagam Nagar

Vilanthidasamuthiram Village

Sirkali Taluk, Nagapattinam District

Rep. by its Proprietor

Mr.T.Selvaraj.

[Petitioner]

Vs

1 The District Collector
Collectorate Office
Nagapattinam.

2 Revenue Divisional Officer
Mayiladuthurai
Nagapattinam District.

3 Tahsildar
Sirkali Taluk
Nagapattinam District.

4 Block Development Officer
Sirkali Panchayat Union
Sirkali.

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the 2nd respondents to remove the seal of the petitioners premises situated at S.No. 239/4G/ 204 Maruthanayagam District and restrain the respondents from interfering with the peaceful running of the petitioners unit situated at S.No. 239/4G/ 204 Maruthanayagam Nagar Vilanthidasamuthiram Village Sirkali Taluk Nagapattinam District.

For Petitioner: Mr.M.Sriram

For Respondent: Mr.R.Rajeswaran, SGP (1-3)
Mr.R.Pratap Kumar (R4) NA

O R D E R

Heard the learned counsel for the petitioner and Mr.R.Rajeswaran, learned Special Government Pleader appearing the respondents 1 to 3.

2. The petitioner has filed the above writ petition to issue a Writ of mandamus directing the 2nd respondent to remove the seal of their premises situated at S.No.239/4G/204, Maruthanayagam Nagar, Vilanthidasamuthiram Village, Sirkali Taluk, Nagapattinam District and restrain the respondents from interfering with the peaceful running of their unit.

3. According to the petitioner, they are running the business of manufacturing of packaged drinking water for the past 10 years. The petitioner obtained necessary licenses such as BIS and FSSAI and periodically renewed the same. The petitioner also obtained No Objection Certificate from the President of Village Panchayat and Certificate of Registration from the Commercial Tax Department and Micro, Small and Medium Industries. Further, according to the petitioner, on the basis of the reports by the Government, the Green Tribunal, by order dated 08.01.2014 has directed to close the number of Units including that of the petitioner. Subsequently, by orders dated 06.02.2014 and 13.02.2014, the Green Tribunal, permitted the petitioner to run the Unit. The petitioner was allowed to use 5 HP Motor to draw groundwater whereas, the petitioner has utilized only 1 HP Motor and hence, according to the petitioner, they have complied with all the norms prescribed in the order. Further, the petitioner contended that even without issuing any notice, the respondents 2 and 3 have sealed the premises at Survey No.239/4G/204, Maruthanayagam Nagar, Vilanthidasamuthiram Village, Sirkali Taluk, Nagapattinam District on 02.08.2017.

4. Mr.M.Sriram, learned counsel appearing for the petitioner submitted that the respondents 2 and 3 have sealed the premises inspite of the fact that the petitioner had complied with all the norms prescribed by the Green Tribunal in its orders dated 06.02.2014 and 13.02.2014, even without issuing any notice to the petitioner.

5. Mr.R.Rajeswaran, learned Special Government Pleader, appearing for the respondents 1 to 3, on instructions submitted that the petitioner was not issued with any notice prior to the sealing of the premises by the respondents 2 and 3.

6. The learned counsel appearing for the petitioner in support of his contentions relied upon an unreported Judgement of the Division Bench of this Court dated 05.02.2016 made in Writ Appeal (MD) No.35 of 2016, wherein, in similar circumstances, the Division Bench has granted liberty to the respondents therein to issue fresh notice and to

consider the entire issue on proper enquiry and also on considering the explanation given by the petitioner therein. Further, the Division Bench had directed the respondents therein to de-seal and unlock the premises forthwith.

7. Since admittedly the petitioner was not served with any notice prior to sealing and locking the premises on 02.08.2017, the ratio laid down by the Division Bench of this Court is squarely applies to the present case. Non issuance of notice to the petitioner is violative of principles of natural justice. Hence, following the Judgment passed in W.A. (MD)No.35 of 2016 dated 05.02.2016, I direct the respondents 2 and 3 to issue show cause notice to the petitioner along with the copies of the documents sought to be relied upon by the respondents within a period of seven days from the date of receipt of a copy of this order and on receipt of such notice, the petitioner shall give their explanation within two weeks thereafter. On receipt of such explanation, the respondents shall conduct enquiry, after giving an opportunity of hearing to the petitioner, shall pass orders, on merits and in accordance with law, within a period of three weeks thereafter, Till such an order is passed, the respondents 2 and 3 are directed to de-seal and unlock the premises forthwith.

With these observations, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

- 1 The District Collector
Collectorate Office Nagapattinam.
- 2 Revenue Divisional Officer
Mayiladuthurai Nagapattinam District.
- 3 Tahsildar
Sirkali Taluk Nagapattinam District.
- 4 Block Development Officer
Sirkali Panchayat Union Sirkali.

+ 1 cc to Mr. Sri Ram, Advocate SR.65885
+ 1 cc to Government Pleader Sr.66002

W.P.No.21577 of 2017

CS-IV
EU 11.09.2017