

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2017

CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P.Nos.23495 & 23496 of 2017

and

WMP Nos.24652 & 24653 of 2017

Mr.P.Kalanidhi
S/o.Mr.Panneerselvam
Rep. M/s.Assefa - Tata Samudhaya Kudineer Thittam
... petitioners
(in WP.No.23495 of 2017)

Mrs.T.Paul Fathima
W/o.Mr.A.Thangaraj
Rep. M/s.Assefa - Tata Samudhaya Kudineer Thittam
... petitioners
(in WP.No.23496 of 2017)

vs.

1. State of Tamil Nadu
Rep. by its Secretary
Health and Family Welfare Department
Fort St.George, Chennai-600 009.
2. The Commissioner
O/o. The Food Safety and Drug Administration
Chennai-600 006.
3. The Designated Officer
Food Safety and Drug Administration Department
Tiruvannamalai - 606 604.
... Respondents
(in WP.Nos.23495 & 23496 of 2017)

Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of certiorarified Mandamus, to call for the records of the 2nd Respondent in proceedings in R.No.6835/2017/S9/FSSA dated 12.08.2017 quash the same and consequently direct the 3rd respondent to remove the seal to enable the petitioners respectively to run the unit.

For petitioners : Mr.M.Arunkumar
(in WP.Nos.23495 & 23496 of 2017)
For Respondents : Mr.A.Kumar
Special Government Pleader
(in WP.Nos.23495 & 23496 of 2017)

C O M M O N O R D E R

The petitioners are aggrieved against the proceedings of the second respondent dated 12.08.2017, wherein and whereby, the petitioners were prohibited from manufacturing and selling drinking water on the reason that no person shall manufacture, sell or exhibit for sale packaged drinking water except under the BIS certification mark as per regulation 2:3:14 (17) of the Food Safety and Standards (Prohibition and Restriction on Sales) Regulations 2011 and that the petitioners were running the packaged drinking water unit without such certification mark. The impugned order further proceeded to state that during the inspection conducted by the concerned officer it was found that health risk has been identified which necessitated in issuing emergency provisions notice on 09.08.2017 following by the impugned order dated 12.08.2017.

2. Heard the learned counsel for the petitioners and the learned Special Government Pleader appearing for the respondents.

3. It is not in dispute that the petitioners are running drinking water units without having any valid licence from the Competent authorities. Even though it is contended that the petitioners are doing such services to the public without any profit motive, by collecting a meagre sum of Rs.7/- per 20 Litres, when the admitted position being that the petitioners units are running without valid licence from the competent authority, this Court is not inclined to come to the rescue of the petitioners and permit them to go ahead with the sale of the water, even though the sale is for a minimal amount, for the simple reason, that selling the drinking water, without having proper certification mark of the competent authorities, is a matter of great concern on the Public Safety aspect and therefore, such attempt by the petitioners, even assuming to be in the interest of serving the public, cannot be encouraged. This Court fails to understand as to what prevents the petitioners from approaching the competent authority and seeking necessary permission. Needless to say that the petitioners can always approach the concerned authorities and seek for permission or licence to run the said units. Without doing so, the petitioners have approached this Court and filed the present writ petitions, that too, by challenging the proceedings, which only prohibited the petitioners from selling the water, without obtaining the valid licence. Therefore, I find no infirmity or

illegality in the impugned order.

4. Accordingly, the writ petitions are dismissed, however, granting liberty to the petitioners to approach the competent authority for obtaining valid licence or permission. If any such application / request is made by the petitioners, it is for the concerned authority to consider and pass appropriate orders in accordance with law within two weeks from the date of receipt of such application. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary
State of Tamil Nadu
Health and Family Welfare Department
Fort St.George, Chennai-600 009.
2. The Commissioner
O/o. The Food Safety and Drug Administration
Chennai-600 006.
3. The Designated Officer
Food Safety and Drug Administration Department
Tiruvannamalai - 606 604.

+1cc to the Government Pleader, S.R.No. 81686

+1cc to Mr.SAMPATH KUMAR Advocate, S.R.No. 81495

RV (CO)
TR(20/11/2017)

W.P.Nos.23495 & 23496 of 2017

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