

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.26637 of 2017

and

W.M.P No.28366 of 2017

Nagalakshmi Agencies,

S.F.No.540/1, Saravanampatti Road,

Vellakinar Village,

Coimbatore 641 029,

Rep. by its Proprietrix

B.Rajamani

.. Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Coimbatore.

2.The Commissioner,
Civil Supplies and Consumer Protection Department,
4th Floor, Ezhilagam,
Chepauk, Chennai 600 005.

3.The District Supply Officer (RE Central)
Collectorate Complex, Coimbatore.

4.The Special Tahsildar, Flying Squad,
Collectorate Complex, Coimbatore.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of mandamus forbearing the respondents from interfering with the functioning of the petitioner unit situated in S.F.No.540/1, Saravanampatti Road, Vellakinar Village, Coimbatore 641 029 without following the due process of law.

For Petitioner : Mr.ARL.Sundaresan
Senior Counsel
for Mr.I.Abrar Md Abdullah

For Respondents : Mr.A.Kumar for R1
Special Government Pleader
Mr.L.P.Shanmugasundaram for R2 to R4

O R D E R

The petitioner seeks for a mandamus forbearing the respondents from interfering with the functioning of the petitioner unit situated in S.F.No.540/1, Saravanampatti Road, Vellakinar Village, Coimbatore 641 029 without following the due process of law.

2.Heard Mr.ARL.Sundaresan, learned Senior Counsel appearing for the petitioner, Mr.A.Kumar, learned Special Government Pleader appearing for the first respondent and Mr.L.P.Shanmugasundaram, learned counsel appearing for the respondents 2 to 4.

3.It is stated that the petitioner is running an oil refining unit by purchasing the used oil from various companies and workshops and re-refining the same and selling to various local workshops as per their requirements. It is further stated that the petitioner was granted consent by the Tamilnadu Pollution Control Board for operating the plant in the year 2001 and the same is periodically being renewed. It is further stated that the petitioner obtained a renewal vide authorization for the year 2012 for operating the said unit for collection/reception/treatment/storage/transport and disposal of hazardous waste under Rule 3 (b) and 5(4) of the Hazardous Waste (Management, Handling and Transboundary Movement) Rules 2008. In addition to the authorization mentioned above, it is stated that the Tamilnadu Pollution Control Board has also given consent by proceedings dated 01.07.2016 and the same is in force till this date and expiring only on 30.06.2018. It is further stated that on 27.09.2017, the fourth respondent visited the premises and sealed the entire unit without issuing any notice to the petitioner or seeking their explanation. It is further stated that a criminal case has been registered against the petitioner in Crime No.634/2017 on the file of Thudiyalur Police Station.

4.A Counter affidavit is filed by the third respondent wherein it is stated that the Special Tahsildar, Flying Squad, Coimbatore, attached to the District Supply Officer, Coimbatore conducted a surprise inspection on 27.09.2017 in the premises of the petitioner and found that certain quantities of various types of oils were stored and that on enquiry, it was revealed that the various types of oils which were stored are highly inflammable and that the stored oils are nothing but the petroleum products, which may cause heavy damage to the life and property of the residents and college nearby in the event of any explosion. It is further stated in the counter affidavit that the petitioner did not produce copies of the required license issued in accordance with the provisions of the Control Orders

issued by the Government of India under the Essential Commodities Act, 1955. The counter proceeded further to state in detail as to what are the documents which are not furnished by the petitioner at the time of inspection.

5.The learned Senior Counsel appearing for the petitioner submitted that the very locking and sealing of the premises by the fourth respondent is without jurisdiction as the product refined by the petitioner would not fall under the definition of any petroleum product and therefore, the allegations made against the petitioner are false. He further submitted that the fourth respondent, at any event, is not having jurisdiction to lock and seal the premises that too, without issuing notice to the petitioner and getting their explanation.

6.On the other hand, the learned Special Government Pleader appearing for the first respondent submitted that immediate action was to be taken only because it was noticed that the stored materials are highly inflammable and would cause heavy damage to life and property of the residents and college nearby in the event of explosion, more particularly, when the petitioner has not produced the required licenses/permission to do such business.

7.Learned Government Pleader further submitted that already a show cause notice was issued to the petitioner for which the petitioner has not given any reply. To the said submission, the learned Senior Counsel for the petitioner submitted that already reply has been given to the first respondent.

8.Upon hearing the learned Counsels appearing on either side and considering the respective pleadings of the parties as well as their contentions, this court is of the view that considering the nature of the allegation made against the petitioner and seriousness involved therein, it would be only proper to direct the first respondent to complete the enquiry and pass final order at the earliest so as to see the finality of the proceedings initiated against the petitioner before the authorities. This Court, at this stage, is not expressing any view on the merits of the matter including the question of jurisdiction as raised by the learned senior counsel for the petitioner, as such issue can also be gone into by the first respondent while deciding the matter. Therefore, this writ petition is disposed of as follows:

a)The petitioner shall furnish reply to the show cause notice once again to the first respondent, within a period of two weeks from the date of receipt of a copy of this order;

b) On receipt of such reply, the first respondent shall conduct enquiry and pass final orders after hearing the petitioner in person as well;

c) The petitioner is at liberty to raise all the contentions including the question of jurisdiction of the fourth respondent before the first respondent, who in turn, shall consider such aspect as well and decide the matter;

d) The whole exercise shall be done by the first respondent within a period of two weeks from the date of receipt of the explanation from the petitioner.

No costs. The connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

vri

To

- 1.The District Collector,
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+3cc to Mr.I.Abrar Md Abdullah, Advocate in sr.no.79879

W.P.No.26637 of 2017

MN (CO)
NR 13/11/2017

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