

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2017

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THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.4230 of 2011

R. Jayanthi

... Petitioner

Vs.

The District Revenue Officer,
Vellore District,
Vellore.

... Respondent

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records of the proceedings in Na.Ka.No.C2/47262/2010 dated 25.11.2010, passed by the respondent and to quash the same consequently, direct the respondent to issue no objection certificate, within a time frame to be fixed by this Hon'ble Court.

For Petitioner : Mr. T.Karunakaran

For Respondent : Mr.S.Gunasekaran
Additional Government Pleader

O R D E R

Heard Mr.T.Karunakaran, learned counsel appearing for the petitioner and Mr.S.Gunasekaran, learned Additional Government Pleader appearing for the respondent.

2.The petitioner has approached this Court for seeking the following relief,

"to issue a Writ of Certiorarified Mandamus, to call for the entire records of the proceedings in Na.Ka.No.C2/47262/2010 dated 25.11.2010, passed by the respondent and to quash the same consequently, direct the respondent to issue no objection certificate, within a time frame to be fixed by this Hon'ble Court."

3. According to the petitioner, Indian Oil Corporation Limited, had proposed to give Kisan Seva Kendra Dealership (B Site) to him, in his land located at Thuthipattu Village in Survey No.155/1A1, & 155/1A2, (Near Adukkambarai), Vellore District, through letter dated 23.10.2008. For grant of

dealership, the Indian Oil Corporation Limited directed the petitioner to obtain 'No objection certificate' for the above said lands from the District Revenue Officer, Vellore, the respondent herein, the Superintendent of Police, Vellore, and the Divisional Officer, Fire Service and Recovery Office, Vellore. Pursuant to the direction of the Corporation, the petitioner submitted an application for no objection certificate to all the authorities concerned.

4. In response to her application, the Superintendent of Police, Vellore District, has given a 'No objection certificate' through his proceedings dated 10.09.2009. The Fire Service and Recovery Office had also given 'No objection certificate' on 02.09.2009. However, the respondent has not given 'No objection certificate'.

5. In the above circumstances, the petitioner submitted a representation dated 31.03.2010 to the respondent. Thereafter, respondent forwarded the application to the Revenue Divisional Officer, Vellore, to conduct an enquiry and to give a report whether the petitioner can run the Diesel Bunk in the land owned by him. In turn, the Revenue Divisional Officer had requested the Tahsildar to inspect the said property and file a report by proceedings dated 17.06.2010.

6. The Tahsildar had inspected the site and submitted the report dated 05.07.2010 to the Revenue Divisional Officer stating that subject to fulfilment of all certain conditions, there was no objection for locating the diesel bunk in the land owned by the petitioner. However, in spite of the report by the Tahsildar, no action was taken by the respondent and therefore, the petitioner was constrained to approach this Court in W.P.No.25616 of 2010. This Court vide order dated 12.11.2010 disposed of the writ petition by directing the respondent to pass order on the application of the petitioner dated 31.03.2010 within a period of two weeks from the date of receipt of a copy of the order.

7. In pursuance of the above direction passed by this Court, an order was passed on 25.11.2010, rejecting the request of the petitioner, which rejection order is impugned in the present writ petition.

8. The learned counsel appearing for the petitioner would contend that the rejection order discloses non-application of mind and the same has also not considered the report of the Tahsildar submitted to him on 05.07.2010, in which, Tahsildar had clearly opined that subject to fulfilment of certain conditions, the land can be used to locate the diesel bunk. In the rejection order, the respondent has concluded that the

Tahsildar had opined that the land cannot be used for the purpose, in which the petitioner has sought for, which conclusion clearly shows the non application of mind and the said finding by the respondent is contrary to fact and finding of the Tahsildar. According to the learned counsel for the petitioner, the rejection is only on the basis of the conclusion arrived at by the Tahsildar, which conclusion was actually in favour of the petitioner. Therefore, he would submit that there was no proper application of mind on the part of the respondent for denying the permission.

9. Further, the other authorities namely the Superintendent of Police, Divisional Officer, Fire Service and Recovery Office have also considered the request favourably and issued no objection. Such being the case, the respondent's rejection order cannot be countenanced both in law and on facts.

10. Upon notice, the learned Additional Government Pleader appearing for the respondent, filed a detailed counter affidavit. The counter states that the respondent had called for a report from the necessary authorities, and thereafter, concluded against the grant of permission to the petitioner.

11. When the matter was taken up earlier for hearing, the learned Additional Government Pleader was directed to produce any report other than the report submitted by the Tahsildar on 05.07.2010. However, in spite of grant of sufficient time, the learned Additional Government Pleader was unable to produce any document to show that any report has been submitted holding that the location of land was not suitable for running the diesel bunk by the petitioner. The learned Additional Government Pleader was also not able to produce any file contrary to the application of the petitioner. In the absence of any contra material, this Court has to necessarily conclude, that there is no material to show that the petitioner's request can be rejected on a valid cause.

12. In the above circumstances, this Court has no hesitation in allowing the writ petition. Therefore, the impugned order in Na.Ka.No.C2/47262/2010 dated 25.11.2010, passed by the respondent is hereby set aside and there shall be a consequential direction to the respondent to consider the issue of 'No objection certificate' within a period of eight weeks from the date of receipt of a copy of this order, if the application submitted in this regard, is otherwise in order.

With the above direction, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

bri

To

1. The District Revenue Officer,
Vellore District,
Vellore.
2. The Public Prosecutor,
High Court, Madras.

+1cc to the Government Pleader, S.R.No. 79310

+1cc to Mr.T.KARUNAKARAN Advocate, S.R.No. 79127

W.P.No.4230 of 2011

TR(06/12/2017)

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