

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2017

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.28255 of 2017

ESTEE AUTO PRESSING Private Limited,
having its factory at
54, SIPCOT Industrial Complex,
Hosur - 635 126
also having its registered office at
39 (New 70), Landons Road,
Kilpauk, Chennai 600 010,
rep. by its Managing Director,
Mr.Nitin Seshadri

... Petitioner

vs.

The Hosur Municipality,
represented by its Commissioner,
1, Bangalore Bye Pass Road,
(Near Bus Stand),
Hosur - 635 109.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari, calling for the records of the respondent in relation to the penalty amount receipt bearing S.No.2015/09/1027, dated 24.10.2017 and quash the same.

For Petitioner : Mr.V.M.Kannan,
for Mr.T.K.Bhaskar

For Respondent : Mr.N.Subbarayalu

O R D E R

The petitioner Company has come up with this Writ Petition seeking to quash the impugned order dated 24.10.2017 passed by the respondent herein, imposing penalty of a sum of Rs.4,00,000/- on them, on the ground that they are responsible for spread of mosquitoes/worms capable of causing Dengue fever and/or Chickengunia, thereby causing loss of life of the people living in and around their factory. According to the petitioner Company, they had also sent a post-dated cheque dated 08.11.2017 for a sum of Rs.4 lakhs to the respondent.

2. When the matter is taken up for hearing, learned counsel appearing for the respondent, submitted that the respondent is willing to issue fresh notice to the petitioner Company and afford them an opportunity of hearing to clean their premises within the time stipulated, failing which, they will proceed as per the provisions stipulated under the Tamil Nadu Public Health Act, 1939 and they are also willing to follow the guidelines stipulated in the order dated 01.11.2017 passed by this Court in W.P.Nos.27875 and 27817 of 2017.

3. Heard the learned counsel on either side and perused the material documents available on record.

4. In a similar circumstance, this Court, by an order dated 13.11.2017 in W.P.No.28338 of 2017, has held as follows:

"6. Though according to the petitioner, a notice under Section 84 of the Act has to be issued to him and only in the case of non-compliance of the same, provisions of Section 88 has got to be invoked, this Court is of the view that it is not necessary that the provisions of the Tamil Nadu Public Health Act have to be invoked in the ascending order. Since Dengue fever is prevalent everywhere in the State, immediate prevention of breeding of mosquitoes is the need of the hour and owners, who do not maintain their premises cleanly, cannot expect a notice to be issued to them at first.

7. In view of the above, this Court holds that the respondents are at liberty to inspect the petitioner's premises on a specific date and the same shall be intimated to the petitioner, who is directed to be present at his premises on the said date. However, it is made clear that there is no need for advance intimation and that notice can be served on the day of inspection also. The respondents shall take photographs/videographs of the premises and if defects are found, they shall serve a notice to the petitioner immediately. The petitioner can be directed to rectify the defects within 24 hours or such other time frame from the receipt of the notice from the

respondents, failing which, it is open to the respondents to demand the amount towards cost of clearing dengue larva breeding areas and also demand other amounts as per the provisions of the Act."

5. In view of the above, as the respondent has not granted an opportunity to the petitioner Company under the provisions of the Tamil Nadu Public Health Act, 1939, to clean its premises, this Court feels it appropriate to quash the impugned order dated 24.10.2007 and accordingly, it is quashed. However, it is open to the authorities to go to the site, inspect and thereafter, directly serve notice on the petitioner to clear the debris, which cause health hazards and if the petitioner does not clear the debris within 24 hours or such other time stipulated by the respondent, it is open to the respondent to initiate action in accordance with the provisions of the said Act.

The Writ Petition is allowed with the above direction and observation. No costs. Consequently, connected W.M.P.No.30373 of 2017 is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

(aeb)

To:
The Commissioner,
Hosur Municipality,
1, Bangalore Bye Pass Road,
(Near Bus Stand), Hosur - 635 109.

+1cc to Mr.T.K.Bhaskar, Advocate, S.R.No.84582

W.P.No.28255 of 2017

RRK(18/12/2017)