

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.28841 of 2017
and
W.M.P.No.31062 of 2017

P.Vikram Kumar,
Silk Twisting Factory,
Proprietor, Mr.P.Vikram Kumar,
No.9/219, Muniappan Kovil Kaddu,
Puthur Agrakaram,
Neikarapatty, Salem Taluk and District. .. Petitioner

Vs.

1. The District Collector
Salem Collector Office,
Salem and District
2. The Assistant Director
Rural Development Office,
Salem and District.
3. The Block Development Officer,
Panchayat Union Office,
Veerapandy, Salem and District.
4. The Special Officer,
Puthur Agrakaram Panchayat Union Office,
Salem and District. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned notice of the third respondent issued in Na.Ka.No.24/2017/thee3 dated 27.10.2017 and quash the same and direct the third respondent not to take any action against the petitioner's factory without issuing the prior notice.

For Petitioner : Mr.M.Thamizhavel

For Respondents 1 & 2 : Mr.S.Diwakar,
Special Government Pleader

For Respondent 3 : Mr.K.Balamurugan

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned notice of the third respondent issued in Na.Ka.No.24/2017/thee3, dated 27.10.2017 and quash the same and direct the third respondent not to take any action against the petitioner's factory without issuing the prior notice.

2. According to the petitioner, without providing an opportunity of being heard, the impugned order has been passed. Since the mosquito larva is spreading the dengue fever in the petitioner-factory's water tank and there was wastage found in the petitioner's factory, the impugned order has been passed imposing fine. In its previous inspection report dated 16.11.2017, the authority has pointed out the defects mentioning the larva breedings sources. It is now represented that the place in question is clean. In terms of the provisions of the Tamil Nadu Panchayats Act / the Tamil Nadu Public Health Act, it is open for the authorities to inspect the place at any time and give the party an opportunity to rectify the defects and within 24 hours if the defects are not rectified, apart from imposing fine, the charges for cleaning and other amount spent for rectification by the authorities can be recovered from the party.

3. Hence, the Writ Petition has got to be allowed. It is open for the respondents to initiate action either under the Tamil Nadu Panchayats Act or under the Tamil Nadu Public Health Act or under both the Acts. It is also open for the authorities to issue notice before any action is taken. If the respondents want to take action under the provisions of the said Acts, it is not necessary that only after serving notice, the time has got to be given for inspection. It is also open for the authorities to serve notice in writing and simultaneously, after service of notice, inspect the site in question, so that the defects can be pointed out and action can be proceeded with. It is not necessary that after service of notice, the reasonable time has got to be given and thereafter, the place has got to be inspected. The spirit of Section 88 of the Tamil Nadu Public Health Act is that it is open for the authorities to serve notice on the occupier or owner and immediately thereafter, it is open for the authorities to inspect the place. The intention of the said enactment is to ensure that the place is kept neat and tidy without causing any health hazards. If there are any provisions under the Tamil Nadu Panchayats Act, it can also be invoked.

4. With the above observations, the Writ Petition is allowed. No costs. Consequently, W.M.P. is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

CS

To

1. The District Collector
Salem Collector Office,
Salem and District
2. The Assistant Director
Rural Development Office,
Salem and District.
3. The Block Development Office
Panchayat Union Office,
Veerapandy
Salem and District
4. The Special Officer
Puthur Agrakaram Panchayat Union Office,
Salem and District

+1cc to Mr.M.Thamizhavel, Advocate, S.R.No.83354

+1cc to the Government Pleader, S.R.No.83706

W.P.No.28841 of 2017
and

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SV(CO)

RRK(18/12/2017)

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