



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.10.2017

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THE HONOURABLE MR. JUSTICE R. MAHADEVAN

WEB COPY

W.P(MD) No.16233 of 2017 and
W.M.P.(MD) Nos.12906 & 12907 of 2017

K.Padma

... Petitioner

-vs-

The Commissioner,
Kadayanallur Municipality,
Kadayanallur,
Tirunelveli District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the respondent in his proceedings in Na.Ka.No.3215/2014/H-1 dated 03.11.2016, quash the same and consequently direct the respondent to unlock the seal put up on the premises of the petitioner Water Plant at Blue Line Aqua Products situated at Door No.1-9-70, Vairavankulam Village, Kadayanallur, Tirunelveli District.

For Petitioner	: Mr.V.Kathirvelu, Senior Counsel
	For Mr.K.Prabhu
For Respondent	: Mr.P.Srinivas

ORDER

This writ petition has been filed, seeking to quash the impugned order issued by the respondent in his proceedings in Na.Ka.No.3215/2014/H-1 dated 03.11.2016, by which, the licence granted to the petitioner to run the Water Plant was cancelled. The petitioner also sought a direction to the respondent to unlock the seal put up on the premises of the petitioner Water Plant at Blue Line Aqua Products situated at Door No.1-9-70, Vairavankulam Village, Kadayanallur, Tirunelveli District.

2. The case of the petitioner is that she is into the business of supplying packaged drinking water and distributing the same through packed bottles to various parts of the State and she has already obtained necessary approvals and permissions from the competent authorities. While so, to the utter shock and surprise, the licence was cancelled on the ground of shortage of drinking water in the locality and the respondent also affixed a seal in the Water Plant run by the petitioner. Aggrieved by the same, the petitioner is before this Court.



3. The learned counsel for the petitioner would submit that without issuance of prior notice or intimation, the respondent has acted in a callous and mechanical manner, thereby locking and sealing the plant of the petitioner. He would further submit that the question of shortage of drinking water does not arise, as a big Dam is located nearby the residential area.

4. Per contra, the learned counsel for the respondent would contend that the petitioner is sucking more water beyond the limit from the land for her water plant, which resulted in acute scarcity of water for adjacent irrigation channel and in this regard, several complaints have been received from the general public. Therefore, the order passed by the respondent does not warrant any interference by this Court.

5. Heard the learned counsel on either side.

6. It cannot be denied that water is very precious for the purpose of cultivation and its misuse cannot be at any costs tolerated. But, at the same time, the respondent, having issued necessary permissions to the petitioner to run the plant on one hand, cannot direct her to close down the same on the other hand. At this juncture, it is worthwhile to refer to a judgment of the Hon'ble Division Bench of this Court in the case of **K.Maruthaiah vs. State of Tamil Nadu [W.P.(MD) Nos.4820/2017 & 21936/2016] decided on 21.08.2017**, which, while dealing with the similar issue, had passed the following order:

"9. The concerned authorities will have to undertake a fresh verification exercise. The Commissioner, Kadayanallur Municipality will thereafter decide the issue afresh in accordance with law. The writ petitioner in W.P.(MD) No.21936 of 2016 will have to be necessarily be heard, before passing such orders by the Municipal Commissioner, Kadayanallur Municipality.

10. The writ petitioner in W.P.(MD) No.21936 of 2016 shall not be permitted to run her plant and tap underground water resources till a fresh license is issued by the Municipal Commissioner.

11. This Court makes it clear that the order impugned in W.P.(MD) No.21936 of 2016 is quashed and the matter is remitted to the file of the Municipal Commissioner, Kadayanallur Municipality to pass a fresh order after obtaining the recommendations from the concerned authorities. It is seen that the writ petitioner had invested considerable sum of money to run the same, only after getting orders from the concerned



departments. By virtue of the direction given in this proceeding, the said plant cannot run, till a fresh license is obtained. The Commissioner, Kadayanallur Municipality shall decide the matter and pass appropriate orders after associating the concerned authorities. Such exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order."

7. Following the above judgment of the Hon'ble Division Bench of this Court, this writ petition is allowed. The matter is remanded back to the respondent for fresh consideration and the respondent shall, at the first blush, remove the seal put up on the premise of the petitioner forthwith so as to enable her to run the plant and thereafter, pass necessary orders on the matter after proper inspection, within a period of four weeks from the date of receipt of a copy of this order, bearing in mind the judgment of the Hon'ble Division Bench of this Court (cited supra). No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To
The Commissioner,
Kadayanallur Municipality,
Kadayanallur, Tirunelveli District.

+ 1 CC TO MR.K.Prabhu, ADVOCATE IN SR No.82194
+ 1 CC TO MR.P.Srinivas, ADVOCATE IN SR No.82318
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MK/JC/SAR-1/12.10.2017/3P/4C

W.P (MD) No.16233 of 2017
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