

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 24.01.2017

CORAM :

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD)No. 11338 of 2013
and M.P.(MD)No.1 of 2013

Shivram & Co,
A registered partnership firm,
rep. by its partner,
K.Neethi Mallika.

... Petitioner

vs.

1. The District Collector cum Inspector of Panchayats,
Madurai District,
Madurai.

2. The President,
Aarkudi - Achampathu Village Panchayat,
Madurai District.

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari calling for the records relating to the impugned order dated 04/07/2013 passed by the second respondent and quash the same.

For Petitioner : Mr.T.R.Jeyapalam

For Respondents : Mr.T.R.Janarthanan
Additional Government Pleader for R1 & R2

ORDER

The petitioner is engaged in manufacturing of packaged drinking water. By an order dated 04.07.2013, the second respondent had cancelled the No Objection Certificate on the ground that the conditions mentioned in the Certificate of Licence had been violated. Challenging the same, the present writ petition has been filed.

2. According to the petitioner, the firm has been using two bore wells for the purpose of getting ground water. The petitioner firm is strictly adhering to the conditions imposed in the licence issued by the second respondent. According to the petitioner firm, since they are discharging the waste water through earth pits, after purification and since it does not contain any chemicals or effluents, the impugned order is liable to be set aside.



3.The learned Additional Government Pleader, on the other hand, submitted that under Rule 5 of the Tamil Nadu Village Panchayats (Form and Contents of Licence and Permission etc.,) Rules, 1999, the Panchayat President is entitled to sustain or cancel the licence and the permission granted by him for violating the licence conditions. The petitioner's business of manufacturing of packed drinking water comes under the definition of 'food' as defined under Section 2(f) of "Food Safety and Standard Act, 2006" and by virtue of it, prior licence from the appropriate authority is *sine-qua-non* for the commencing and carrying on food business. Since the petitioner did not obtain a proper licence under the said Act, the same is not sustainable.

4.The petitioner has put forth various factual aspects stating that the water, she is discharging, is not sewage water and that she has already obtained permission and licence from all the relevant departments. If that be the case, it would be appropriate for the petitioner to file an appeal under Rule 5(2) of The Tamil Nadu Village Panchayats (Form and Contents of Licence and Permission etc.,), before the concerned Panchayat Board against the order of the Panchayat President, since it would not be feasible for me to appreciate facts arising out of the case, while exercising my powers under Article 226 of the Constitution of India.

5.Accordingly, the writ petition is dismissed with liberty to the petitioner to file an appeal before the concerned Panchayat Board under Rule 5(2) of The Tamil Nadu Village Panchayats (Form and Contents of Licence and Permission etc.,), within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector cum Inspector of Panchayats,
Madurai District, Madurai.

2. The President,
Aarkudi - Achampathu Village Panchayat,
Madurai District.

+1 cc to Mr. T.R.JEYAPALAM, Advocate, Sr.No: 4314

VS

MAS/CM-MSA:22.02.01.2017:2P/4C