

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.11227 of 2016
and
W.M.P.No.9740 of 2016

K.Mariyappan

... Petitioner

Vs

1. The Assistant Commissioner,
Central Zone,
Coimbatore Corporation,
Coimbatore Corporation Building,
Coimbatore.
 2. The General Manager,
Coimbatore District Co-operative
Milk Producers Union Ltd.,
Pachapalayam, Kalampalayam Post,
Coimbatore District.
 3. The Commissioner of Police,
Coimbatore City,
Coimbatore.
 4. The Inspector of Police,
C2, L & O (B4) Race Course Police Station,
Coimbatore.
- ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for an issuance of Writ of certiorarified Mandamus by calling for the records from the file of the third respondent in proceeding Na.Ka.No.T2/9937/2016 dated 29.02.2016 and quash the same and consequently, direct the third respondent to issue No Objection Certificate for the place allotted by the second respondent at Race Course near Health Inspector Office, Coimbatore to the petitioner.

For Petitioner : Mr.R.Rajiv Gandhi.

For Respondents : Mr.K.Magesh for R1
Mr.P.Narayana Moorthy for R2
Mr.M.Karthikeyan,
Additional Government Pleader
for R3 and R4.

O R D E R

The order passed by the third respondent in the proceeding in Na.Ka.No.T2/9937/2016 dated 29.02.2016, in respect of grant of No Objection Certificate, for the place allotted by the second respondent at Race Course, Opposite to CSI Church, near sub way Coimbatore, is under challenge in this writ petition.

2. The learned counsel appearing for the writ petitioner states that the petitioner is the sole bread winner of the family and under the welfare scheme introduced by the Government of Tamil Nadu for the differently abled persons, the writ petitioner was granted license by the AAVIN, Coimbatore District Co-operative Milk Producers Union Ltd., to run a milk parlor. In this regard, the writ petitioner submitted a representation dated 08.09.2015 to the third respondent, seeking permission to start a AAVIN milk parlor at Race Course, Opposite to CSI Church, near sub way Coimbatore. Further, the No Objection Certificate was not issued by the third respondent in respect of the place at Race Course, Opposite to CSI Church, near sub way Coimbatore, however, the No Objection Certificate was given in respect of an alternate place, which was not accepted by the writ petitioner.

3. On perusal of the representation of the petitioner in respect of allotment of the original place, the third respondent stated that the place allotted by the second respondent is a congested area to run a milk parlor, where the entire traffic flow will be affected and thus an alternate area was provided. But the petitioner has not chosen to run the milk parlor in the alternate place and moved the present writ petition.

4. The learned Additional Government Pleader appearing on behalf of the third and fourth respondents informed this Court that the Original license granted before, by the second respondent/Coimbatore District Co-operative Milk Producers Union Ltd., has already been cancelled and therefore, the question of considering the case of the writ petitioner would not rise at all. The first respondent also states that the petitioner has not chosen to run the AAVIN Milk Parlor in the alternate cite provided by the third respondent and therefore, now he cannot plead that he is ready to run the parlor in the alternate place.

5. This Court is of an opinion that the original license granted by the second respondent to run the milk parlor has already been cancelled and the writ petitioner has not chosen to run the milk parlor in the alternate cite provided by the third respondent at the time of granting No Objection Certificate. Therefore, it is left open to the

writ petitioner to submit a representation to the second respondent and if any suitable place can be granted in accordance with law and the case of the writ petition shall be considered on merits.

6. With these observations, the writ petition is disposed of. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ay/rts
To

1. The Assistant Commissioner,
Central Zone,
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Coimbatore District.
3. The Commissioner of Police,
Coimbatore City,
Coimbatore.
4. The Inspector of Police,
C2, L & O (B4) Race Course Police Station,
Coimbatore.

+1cc to Mr.R.Rajiv Gandhi , Advocate SR.No. 59406
+1cc to Mr.k.Magesh , Advocate SR.No. 59357
+1 CC TO GOVERNMENT PLEADER SR.NO.59763
+1cc to Mr.P.Narayanamoorthy, Advocate SR.No. 60047

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ASK(25/09/2018)