

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.09.2018

CORAM
THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.s 5550, 21496 & 23799 of 2018
and
W.M.P.s 6860, 25238 of 2018

W.P.5550 of 2018

A.A.Natarajan

... Petitioner

Vs

1. Food Safety and Standard
Authority of India,
Ministry of Health and Family
Welfare Department,
Kotla Road, FDA Bhavan,
New Delhi - 110 002.
2. The District Collector,
Collectorate Office,
Coimbatore-641 018.
3. Corporation Commissioner,
Corporation Main Office,
Corporation of Coimbatore,
Coimbatore-641 001.
4. City Health Officer,
Corporation Main Office,
Corporation of Coimbatore,
Coimbatore-641 001.
5. The Designated Officer,
Tamil Nadu Food Safety and
Drug Administration Department,
Food Safety Wing, 219, Race Course Road,
Coimbatore-641 018.
6. Mr.P.Balamurugan
7. D.Pradeep

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to close down the commercial eatery name 'Amma Mess' near No.74/111, Sree Nagar, Peelamedu, Coimbatore- 641 004

under Coimbatore City Municipal Corporation Act, 1971.

For Petitioner : Ms.Kavitha Deenadayalan

For Respondents : Mr.Su. Srinivasan,
Standing Counsel for R1

Mr.K.Magesh for R3

Mr.A.N.Thambidurai
Special Government Pleader
for R4

Mr.V.Ashok Kumar for R-7

W.P. 21496 of 2018

D.Pradeep Petitioner

Vs

1. Food Safety and Standard
Authority of India,
Health and Family Welfare
Department, Kotla Road,
FDA Bhavan, New Delhi - 110 002.

2. The Corporation Commissioner,
Corporation Main Office,
Corporation of Coimbatore,
Coimbatore-641 001.

3. The City Health Officer,
Corporation Main Office,
Corporation of Coimbatore,
Coimbatore-641 001.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to grant license to run the Eatery in the name of "Sree Amma Mess" situated at Door No.75/A-112 Sri Nagar BR.Puram, Hope College, Coimbatore based on the representation dated 21.04.2018 made by the petitioner.

For Petitioner : Mr.N.Stalin

For Respondents : Mr.Su. Srinivasan,
Standing Counsel for R1

Mr.K.Magesh for R2 & R3

W.P. 23799 of 2018

D.Pradeep

Vs

... Petitioner

1. The Special Officer,
Corporation Commissioner,
Corporation Main Office,
Corporation of Coimbatore,
Coimbatore-641 001.

2. The City Health Officer,
Corporation Main Office,
Corporation of Coimbatore,
Coimbatore-641 001.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records from the file of the 1st respondent in Na.Ka.No.3493/2018/M.E.2, dated 04.09.2018 and quash the same.

For Petitioner : Mr.V.Ashok Kumar

For Respondents : Mr.K.Magesh for R-1

C O M M O N O R D E R

The prayer sought for in the above Writ Petitions are one and the same are disposed of by way of common order.

2. The Writ Petition in W.P.No. 5550 of 2018 has been filed by one A.A.Natarajan, who is claiming to be a resident in the above area, where the petitioner in W.P.No.21496 of 2018 running a restaurant.

2.1 The Writ Petition in W.P.No.21496 of 2018 has been filed seeking for a direction directing the 2nd respondent Corporation to grant license to the petitioner to run a restaurant. The case of the petitioner is that the petitioner has entered into a lease agreement with one Balamurugan for running a restaurant at Door No.75/A-112, Sri Nagar BR.Puram, Hope College, Coimbatore. Thereafter, he has applied for a license from the 1st respondent Food Safety and Standard Authority and a certificate was also granted to the petitioner on 31.02.2005. Hence, the present Writ Petition has been filed by the petitioner. In the meantime, the 2nd respondent herein issued notice to the owner of the premises under the Tamil Nadu Public Health Act to evict the petitioner from the premises. Subsequently, the petitioner has applied for license to the 2nd respondent to run a restaurant and that application was not

considered by the 2nd respondent.

2.2 W.P.No.23799 of 2018 has been filed by the same petitioner in W.P.No.21496 of 2018 challenging the order dated 04.09.2018 passed by the Corporation under Sec. 364 of Coimbatore City Municipal Corporation Act on the ground that the petitioner is running the restaurant without getting any license.

3. Earlier, notice was ordered to the respondents in all those Writ Petitions. Today, when the matters are taken up for hearing, the learned counsel appearing for the Corporation submitted that the petitioner is running the restaurant without obtaining any proper trade license from the Corporation. In the said circumstances, the Corporation has initiated proceedings under Sec.364 of Coimbatore City Municipal Corporation Act to close the restaurant. Even though the petitioner has sent a representation, so far, the petitioner did not file any application seeking for license to run the restaurant. Since the petitioner is running the restaurant without proper license, the Corporation has initiated proceedings to close the restaurant.

4. The learned counsel appearing for the Food Safety and Standard Authority of India submitted that already a certificate has been issued to the petitioner vide Regn. No.22418557000183.

5. I have heard the rival submissions and perused the materials available on record carefully.

6. Admittedly, the petitioner is running the restaurant without obtaining the trade license. Even though a certificate was issued by the Food Safety and Standards Authority of India in favour of the petitioner, the petitioner has to necessarily get the trade license from the corporation. Even though the petitioner said to have sent representation to the Corporation requesting to issue a license, so far, the petitioner has not filed proper application for getting trade license. In the said circumstances, the Corporation authority has issued a notice asking the petitioner to close the restaurant, and i find no illegality in the above order. As the petitioner has already obtained a certificate from the Food Safety and Standard Authority of India, it is always open to him to approach the Corporation by filing necessary application along with necessary fees seeking for a license. If any such application is filed, the Respondent Corporation is directed to consider the application after issuing notice to the petitioner in W.P.No.21496 of 2018 and Mr.A.A.Natarajan, the petitioner in W.P.No.5550 of 2018, who is raising objection for running the restaurant, and pass suitable orders on merits and in accordance with law.

7. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rpp

To

1. Food Safety and Standard
Authority of India,
Ministry of Health and Family
Welfare Department,
Kotla Road, FDA Bhavan,
New Delhi - 110 002.
2. The District Collector,
Collectorate Office,
Coimbatore-641 018.
3. Corporation Commissioner,
Corporation Main Office,
Corporation of Coimbatore,
Coimbatore-641 001.
4. City Health Officer,
Corporation Main Office,
Corporation of Coimbatore,
Coimbatore-641 001.
5. The Designated Officer,
Tamil Nadu Food Safety and
Drug Administration Department,
Food Safety Wing,
219, Race Course Road,
Coimbatore-641 018.

+1cc to Mr.K.Magesh, Advocate, S.R.No.67140

+2cc to Mr.Su.Srinivasan, Advocate, S.R.No.67474

+1cc to the Government Pleader, S.R.No.67812

W.P. 5550, 21496 and 23799 of 2018
and

W.M.P.s 6860, 25238 of 2018

VBA (CO)

rrs 11/10/2018