

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.10790 of 2018
and
W.M.P.No.12733 of 2018

M/s.Om Muruga Food Industry,
S.No.211/17B1, Orathanadu Road,
Neduvakkottai, Melanagai (P.O.),
Mannargudi Taluk,
Thiruvarur District - 614 016,
Represented by its Partner Mrs.R.Vidya. ... Petitioner

Versus

The Block Development Officer,
Mannargudi Panchayat Union Office,
Mannargudi, Thiruvarur District. ... Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned letter of the respondent dated 18.4.2018 in Na.Ka.No.3071/2017/A3 and quash the same and consequently forbear the respondent from interfering with the peaceful running of the petitioner's unit situated at M/s.Om Muruga Food Industry, S.No.211/17B1, Orathanadu Road, Neduvakkottai, Melanagai (P.O) Mannargudi Taluk, Thiruvarur District - 614 016.

For Petitioner : Mr.M.Venkatachalapathy
Senior counsel for
Mr.M.Sriram

For Respondent: Ms.Thangavadhana Balakrishnan
Additional Government Pleader

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O R D E R

Heard Mr.M.Venkatachalapathy, learned Senior Counsel appearing for Mr.M.Sriram, learned counsel for the petitioner and Ms.Thangavadhana Balakrishnan, learned Additional Government Pleader for the respondent.

2. This writ petition has been filed to quash the order of the respondent dated 18.4.2018 and forbearing the respondent from interfering with the peaceful running of the petitioner's unit situated at M/s.Om Muruga Food Industry, S.No.211/17B1, Orathanadu Road, Neduvakkottai, Melanagai (P.O) Mannargudi Taluk, Thiruvarur District - 614 016.

3.The case of the petitioner is that the petitioner industry is engaged in the business of packaged drinking water supply under the name of "Ananya Aqua" at Neduvakottai Village, Mannargudi Taluk, Thiruvarur District. It is the case of the petitioner that they have obtained all the necessary permission and clearance from the various authorities namely Local Authority, Food Safety Standards Authority of India (FSSAI), Bureau of Indian Standards, Town Planning Authority, Tamil Nadu Food Safety and Drug Administration Department, Ground Water Clearance from the Tamil Nadu Public Works Department and necessary consent from the Tamil Nadu Pollution Control Board and the industry is running for the past four years.

4. It seems that based on the complaint given by the villagers dated 09.04.2018, the impugned order came to be passed, directing the petitioner to stop running the business.

5. The learned Senior Counsel for the petitioner by referring the counter affidavit filed by the respondent, submitted that a notice dated 16.4.2018 was issued by the respondent, directing the petitioner to give a reply regarding permission granted by the Government for running the business, for which the petitioner submitted an explanation on 19.04.2018. But, even before the reply reaches, the impugned order came to be passed on 18.4.2018, without providing an opportunity to the petitioner, which is against the principles of natural justice.

6.The learned Additional Government Pleader for the respondent submitted that as per G.O.Ms.No.52 of Public Works Department, dated 02.03.2012, 175 mts. distance has to be maintained between two bore wells, but, the petitioner has dug a bore well at a distance of 161 mts. from the bore well of a farmer namely Mr.Anbazhagan. It is further contended that pursuant to the notice dated 16.4.2018, an explanation was given in person on behalf of the petitioner on the same day. The impugned order has been passed, after considering the reply submitted by the petitioner.

7.In the instant case, it is an admitted fact that the petitioner has been running the industry for the past four years. The impugned order of stoppage has been challenged mainly contending that no opportunity was provided to the petitioner before passing the order. It is specifically alleged that for

the notice dated 16.4.2018, an explanation dated 19.4.2018 was sent, however the impugned order has been made on 18.4.2018. Though it is defended on the ground a reply was submitted by the petitioner in person and after considering the reply, the order was passed, but no materials have been placed to establish their case.

8. It is the submission of the learned Senior counsel, that had the petitioner been heard, the petitioner industry might have accepted to dig a new bore well giving sufficient distance in compliance of the G.O. and the entire issue could have been amicably settled.

9. For the foregoing reasons, the order impugned in this writ petition is set aside and the matter is remitted back to the respondent, who shall pass orders afresh, after affording an opportunity of personal hearing to the petitioner and all the necessary parties, in accordance with law.

10. With the above direction, this writ petition is allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Block Development Officer,
Mannargudi Panchayat Union Office,
Mannargudi, Thiruvarur District.

+1cc to Mr.Thanga Vadhana Balakrishnan, Advocate Sr.44282
+1cc to Mr.M.Sriram, Advocate Sr.43990

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srg 20/07/2018