

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12..09..2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.23285 of 2018  
and  
W.M.P.No.27202 of 2018

Jayanthi

... Petitioner

-Versus-

1.The Commissioner,  
Vellore Corporation,  
Vellore.

2.The Corporation Divisional Officer,  
Division-I,  
Tharapadavedu,  
Vellore.

3.The Corporation Welfare Officer,  
Vellore Corporation, Vellore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the impugned notice No.01/2018 dated 28.08.2018 issued by the 3rd respondent and to quash the same and consequently direct the respondent to permit the petitioner to continue her business in the flour mill namely "Jayam Flour Mill" situated at No.578-A, Kumaran Street, Kangaiyanallur, Vellore, Vellore District.

For Petitioner : Mr.M.Rajendran

For Respondents : Ms.P.Shanthi for R1 to  
R3

ORDER

Challenging the Notice bearing No.01/2018 dated 28.08.2018 issued by the 3rd respondent to the petitioner requiring her to stop operating the floor mill being run by her in the name and style "Jayam Flour Mill" at D.No.578-A, Kumaran Street, Kangaiyanallur, Vellore District.

2. According to the petitioner, she is running a flour mill in the name and style "Jayam Flour Mill" at D.No.578-A, Kumaran Street, Kangaiyanallur, Vellore District. She has applied for trade license to the respondent corporation and paid necessary fees for the same. But, so far, no license has been granted. While so, the Health Officer of Vellore Corporation has issued the impugned notice under Sections 44, 44, 45(1) and 134(1) of The Tamil Nadu Public Health Act, 1939 requiring the petitioner to stop the operation of the flour mill forthwith as she is running her business without any permission or license from the Corporation and the flour mill run by her is causing nuisance to the residents in the vicinity.

3. The 1st respondent has filed a detailed counter wherein he inter alia contended that the petitioner is running her flour mill without obtaining necessary license from the Corporation of Vellore as required under Section 360 of The Vellore City Municipal Corporation Act, 2008. As there is a complaint from one of the residents of the locality that the flour mill run by the petitioner is causing nuisance and affecting the public health, the 3rd respondent inspected the premises and thereafter, issued a notice on 29.08.2018 under Section 44 of the Public Health Act requiring the petitioner to stop running her flour mill. Subsequently to the same, a show cause notice has also been issued on 05.09.2018. The notice which is under challenge in the writ petition was the notice issued under Section 44 of the Public Health Act and therefore no infirmity or illegality could be attached to it.

4. Heard both sides.

5. The learned counsel for the petitioner submitted that without conducting any inspection or enquiry, the impugned notice has been issued by the 3rd respondent which is not legally sustainable. Further, according to the learned counsel, if at all any complaint is received alleging nuisance, it is the mandatory under the Act that the concerned Health Officer shall first issue a show cause notice to the owner or occupier of the premises to abate the nuisance and thereafter, if any default in complying with the requirement is committed, then only, he shall initiate action under Section 45 of the Public Health Act. But, in the instant case, no notice whatsoever under Section 44 of the said Act has been issued by the 3rd respondent.

6. Per contra, the learned counsel for the respondents submitted that subsequent to the impugned notice, a show cause notice has been issued to the petitioner under Section 44 of the Act and the petitioner is yet to file her objection to the same. If the petitioner submits her objection to the show cause notice, the respondents would consider the same and proceed with

further in accordance with law.

7. In this case, it could be seen from the materials available on record that no show cause notice as required under Section 44 of The Public Health Act was issued to the petitioner and the 3rd respondent has straightaway issued the impugned notice. Admittedly, it was only after the filing of the instant writ petition, the respondents have chosen to issue a show cause notice to the petitioner on 05.09.2018 and enquiry is yet to be conducted. In such view of the matter, the petitioner is directed to appear before the 3rd respondent and submit her objection. On receipt of objection from the petitioner, the 3rd respondent shall consider the same on merits and in accordance with law and thereafter, if he is satisfied that the flour mill run by the petitioner is causing nuisance and affecting public health, he is at liberty to pass final orders as per law. Until such final order is passed in the pending proceedings, the respondents shall not disturb the petitioner from running her flour mill.

8. In the result, the writ petition is disposed of with the above directions. No costs. Consequently, connected WMP is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner,  
Vellore Corporation,  
Vellore.

2.The Corporation Divisional Officer,  
Division-I,  
Tharapadavedu,  
Vellore.

3.The Corporation Welfare Officer,  
Vellore Corporation,  
Vellore.

+1cc to Mr.M.Rajendran, Advocate, S.R.No.63642

W.P.No.23285 of 2018

GSP(14/09/2018)