

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.17316 of 2017

The President,
S.Kanniappan,
Manavalakalai Mandra Arakattalai,
No.21, Kammalar Street,
Thirukazhukundram,
Kancheepuram District. Petitioner

vs.

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The Executive Officer,
Thirukazhukundram Town Panchayat,
Thirukazhukundram,
Kancheepuram District.
3. G.Saroja Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, to call for the records of the 2nd Respondent in Na.Ka.No.235/2016/A2, dated 18.04.2017 and quash the same and direct the 2nd Respondent to dispose of the representation dated 07.07.2016 of the 3rd Respondent in accordance with the orders passed in W.P.No.274 of 2017, dated 05.01.2017.

For Petitioner : Mr.T.Sivagnanasambandan
For Respondents 1 & 2 : Mr.A.N.Thambidurai,
Special Government Pleader
For 3rd Respondent : Mr.A.Venkatesan

O R D E R

(Order of the Court was made by M.VENUGOPAL,J.)

The Petitioner has come up with the present Writ Petition seeking to quash the Proceedings of the 2nd Respondent vide Na.Ka.No.235/2016/A2, dated 18.04.2017 and for a direction to

the 2nd Respondent to dispose of the representation dated 07.07.2016 of the 3rd Respondent, in accordance with the orders passed in W.P.No.274 of 2017, dated 05.01.2017.

2. Heard the Learned Counsel for the parties.

3. According to the Petitioner, he is the President of Manavalakalai Mandra Arakattalai and the Institution is attached with the "World Samuthaya Seva Sangam". The Petitioner/Institution is providing Yoga and Meditation Training to people at free of cost, to relieve stress and strain. It appears that the Petitioner had applied to Thirukazhukundram Town Panchayat and the Panchayat was pleased to consider the application and on 19.07.2016, the Panchayat passed a Resolution to grant land to an extent of 5 Cents to them, for a 99 year lease period at the rent of Rs.500/- per year, in the earmarked 3 acres land for public activities. The Town Panchayat had applied for separate electricity connection for conducting Yoga and Meditation. The Tamil Nadu Electricity Board was pleased to give electricity connection, which according to the Petitioner, is for a public purpose.

4. It comes to be known that the 3rd Respondent, as a Writ Petitioner, filed W.P.No.274 of 2017 before this Court and this Court, on 05.01.2017 had directed the representation of the 3rd Respondent, dated 07.07.2016 addressed to the 2nd Respondent therein, to be disposed of in accordance with law, after notice to all concerned, within a maximum period of three months from the date of receipt of a copy of the order.

5. The grievance of the Petitioner is that no notice was issued by the 2nd Respondent/Executive Officer, Thirukazhukundram Town Panchayat, while passing the impugned order on 18.04.2017, whereby and whereunder, as per the order passed by this Court in W.P.No.274 of 2017, constructions are to be removed.

6. In view of the fact that the present Writ Petitioner was not put on notice as per the direction issued by this Court in W.P.No.274 of 2017, dated 05.01.2017, and straightaway the 2nd Respondent had passed the impugned order dated 18.04.2017, whereby and whereunder, all constructions will have to be removed from the said land, this Court is of the considered view that the 2nd Respondent has not adhered to the principles of natural justice in issuing notice to the Petitioner and hearing his objections and to pass final orders, in the subject matter in issue. Since there has been a negation of the principles of natural justice, this Court is left with no other option, except to interfere with the impugned order dated 18.04.2017 of the 2nd Respondent and set aside the same, to prevent aberration of justice.

7. In fine, the Writ Petition is allowed without costs. The impugned order dated 18.04.2017 is set aside for the reasons assigned by this Court in this Writ Petition. The 2nd Respondent is directed to issue fresh notice to the Petitioner, after keeping in mind the tenor and spirit of the order dated 05.01.2017 passed in W.P.No.274 of 2017, within a period of seven days from the date of receipt of a copy of this order. Thereafter, the Petitioner shall offer its explanation within two weeks and the 2nd Respondent shall take into account the same and pass a reasoned speaking order, of course, by adhering to the principles of natural justice and also after hearing the complainant, if any, and by issuing notice to all concerned. It is open to the Petitioner to raise all factual and legal pleas before the 2nd Respondent and it cannot be gainsaid that the 2nd Respondent has to meet out every factual and legal aspect raised by the Petitioner at the time of passing final orders.

Consequently, connected W.M.P.No.18820 of 2017 is closed.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To:

1. The District Collector,
Kancheepuram District,
Kancheepuram.
 2. The Executive Officer,
Thirukazhukundram Town Panchayat,
Thirukazhukundram,
Kancheepuram District.
- 1 cc to MR.A.Venkatesan, Advocate Sr.No.11667
 - 1 cc to The Government Pleader Sr.No.12153

Order in
W.P.No.17316 of 2017

VS 27/02/2018