

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2018

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.29279 of 2017
& W.M.P. No.31538 of 2017

M/s.New Amul R.O. Mineral Water Plant
3/374, Karuvadi Street,
Karuvadi Village, Thirumarugal Block,
Nagapattinam Taluk & District - 609 702
Rep. by its Proprietor Mr.R.Mohan ...Petitioner

Versus

1. The District Collector,
Collectorate Office,
Nagapattinam.
2. Revenue Divisional Officer,
Nagapattinam, Nagapattinam District.
3. Tahsildar
Nagapattinam Taluk,
Nagapattinam District.
4. Block Development Officer,
Tirumarugal Panchayat Union,
Thirumarugal. ... Respondents

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus to direct the respondents to remove the seal of the petitioner's premises situated at S.No.3/374, Karuvadi Street, Karuvadi Village, Nagapattinam Taluk & District and restrain the respondents from interfering with the peaceful running of the petitioner's unit situated at S.No.3/374, Karuvadi Street, Karuvadi Village, Nagapattinam Taluk & District.

For Petitioner: M/s.M.Sriram

For RR1 to 3 : Mr.M.Perumal

For R4 : Mr.N.Parthasarathy, Government Advocate

O R D E R

The petitioner has come forward with the present writ petition seeking issuance of a writ of mandamus to direct the respondents to remove the seal of the petitioner's premises situated at S.No.3/374, Karuvadi Street, Karuvadi Village in Nagapattinam Taluk & District and to restrain the respondents from interfering with the peaceful running of the petitioner's unit.

2. The case of the petitioner is that he is running the business of manufacturing packaged drinking water for the past 7 years and he had obtained necessary licences and permissions from the respective Departments. It is further stated that the President of the Village had also issued No Objection certificate for running the said Unit. As per the instruction of the 1st respondent, the 4th respondent had sealed the Unit of the petitioner in the month of February 2017, hence the present writ petition.

3. Mr.M.Sriram, learned counsel for the petitioner submitted that before sealing the petitioner's premises, the respondents have not issued any notice nor provided any opportunity to put forth their case. In similar circumstances, a Division Bench of this Court in Writ Appeal (MD) No.35 of 2016 had issued direction to the respondents to de-seal and unlock the premises. It is further stated that the said order of the Division Bench was followed by a learned Single Judge in W.P.No.21577 of 2017.

4. Per contra, the learned Government Advocate appearing for the 4th respondent submitted that the 4th respondent had issued a notice dated 02.02.2016 to close the said Unit. Since the Unit was not closed by the petitioner, the premises was sealed by the 4th respondent on 02.02.2017. It is further submitted that there are so many complaints against the petitioner by the general public of the village.

5. I have heard both side and considered the rival submissions and perused the materials available on record.

6. In the instant case, according to the petitioner, they have been running the business for the past 7 years, after obtaining necessary permission from the authorities. However, without affording an opportunity of personal hearing, their business premises was sealed by the 4th respondent. In the typed set of papers filed along with the writ petition, the petitioner has enclosed building plan approval, No Objection certificate issued by Polagam Panchayat and the Certificates issued by Bureau of Indian Standards (BIS) and Tamil Nadu Food Safety and

Drug Administration Department in support of their case. In similar facts, a Division Bench of this Court in Writ Appeal (MD) No.35 of 2016 by order dated 05.02.2016, while directing the respondents therein to issue show cause notice, and take appropriate action in accordance with law after affording an opportunity, also directed the respondents therein to de-seal and unlock the premises forthwith. The learned Single Judge in W.P.No.21577 of 2017 following the order of the said Division Bench, allowed the writ petition.

7. In the light of the above facts, this Court is of the considered opinion that the orders passed by this Court referred supra, would squarely apply to the facts of this case. In the result, the present writ petition is disposed of with the following directions:

"(a) the first respondent is directed to issue show cause notice to the petitioner along with the copies of the documents sought to be relied on by the first respondent, within a period of 7 days from the date of receipt of a copy of this order.

(b) On receipt of such notice, the petitioner shall give their explanation, within a period of 7 days thereafter.

(c) On receipt of such explanation, the first respondent shall conduct an enquiry, give an opportunity of hearing to the petitioner and the complainants and pass orders on merits and in accordance with law, within a period of two weeks thereafter.

(d) the Official respondents are directed to de-seal and unlock the premises forthwith."

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True copy//

Sub Assistant Registrar

pvs

To

1. The District Collector,
Collectorate Office,
Nagapattinam.

2. Revenue Divisional Officer,
Nagapattinam, Nagapattinam District.

3. Tahsildar
Nagapattinam Taluk,
Nagapattinam District.

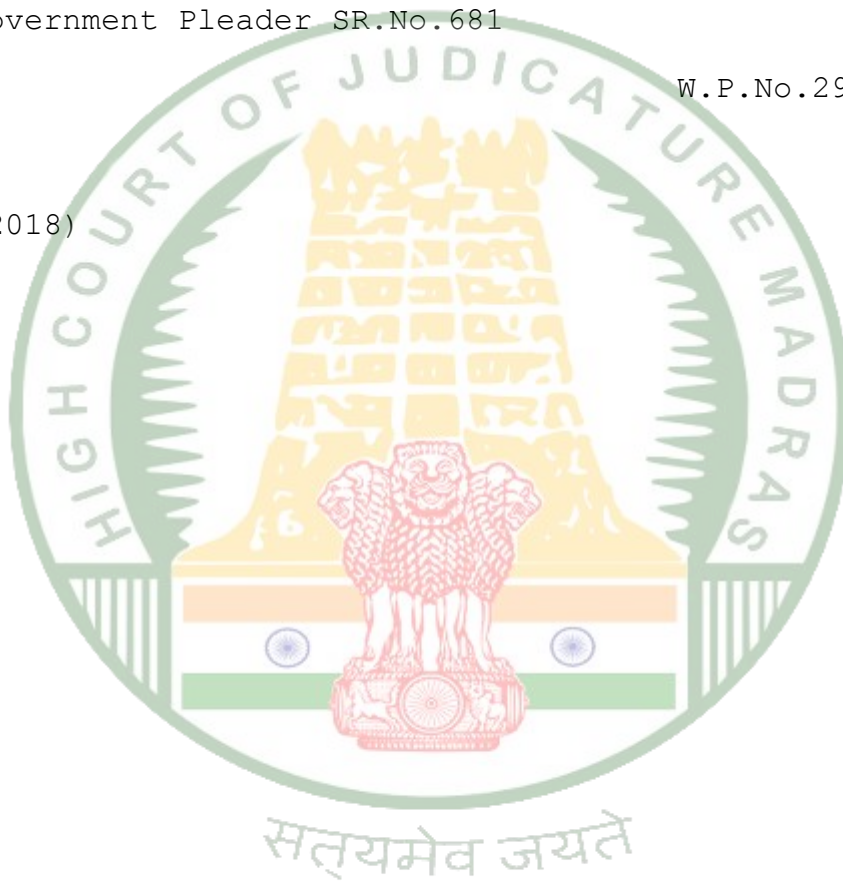
4. Block Development Officer,
Tirumarugal Panchayat Union,
Thirumarugal.

+1cc to Mr.Sriram, Advocate SR.No.795

+1cc to Government Pleader SR.No.681

W.P.No.29279 of 2017

KJI (CO)
GN(22/01/2018)



WEB COPY