

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	27/04/2018
Delivered on	07/06/2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
W.P.No.19332 of 2017 & W.M.P.No.20848 of 2017 &
W.P.No.19333 of 2017

Ranjeet Kumar

.. Petitioner in both W.Ps'

Vs.

- 1.The Revenue Officer,
Corporation of Chennai, Zone - 4,
Rippon Building,
Chennai - 600 003.
- 2.The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai - 600 003.
- 3.The Zonal Officer IV,
Tondiarpet, Greater Chennai Corporation,
Zonal IV.
- 4.Mr.R.Rajkumar
- 5.The Assistant Engineer,
TANGEDCO, Kodungaiyur, Chennai .. Respondents in both W.Ps'

(R-5 impleaded suo moto
as per order dated 18.12.2017
in W.P.Nos.19332 & 19333 of 2017)

PRAYER in W.P.No.19332 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent in notice dated 21.07.2017 and to quash the same and direct the respondent to open the seal put by the respondent on 22.07.2017 at No.19, Dr.Radha Krishnan Salai, Vivekananda Nagar, Chennai - 118.

PRAYER in W.P.No.19333 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents to renew the license of the petitioner enable the petitioner to run the plastic manufacturing factory in the premises bearing No.19, Dr.Radha Krishnan Salai, Vivekananda Nagar, Chennai - 118 with the permissible unit of Horse Power of electricity.

For Petitioner in
both Writ Petitions : Mr.Samir S.Shah
For M/s.Shah & Shah

For Respondents in
both Writ Petitions : Mr.T.C.Gopalakrishnan
Standing Counsel
for R1 to R3

Mr.M.Velmurugan for R4

Mr.P.R.Dhilip Kumar
Standing Counsel for R5

C O M M O N O R D E R

The prayer in W.P.No.19332 of 2017 is to quash the notice issued by the third respondent dated 21.07.2017 under Section 379 (A) of the Chennai City Municipal Corporation Act, and for a direction to the respondent to open the seal put by the respondent on 22.07.2017 at No.19, Dr.Radha Krishnan Salai, Vivekananda Nagar, Chennai - 118.

2. W.P.No.19333 of 2007 has been filed for issuance of Writ of Mandamus, directing the respondents to renew the license of the petitioner to run the plastic manufacturing factory in the premises bearing No.19, Dr.Radha Krishnan Salai, Vivekananda Nagar, Chennai - 118.

3. The case of the petitioner is that he was engaged in the business of trading plastic bags since 1990 and in the year 2010, he decided to establish a manufacturing unit of plastic bags. He rented the premises of the fourth respondent situated at No.19, Dr.Radha Krishnan Salai, Vivekananda Nagar, Chennai - 118 on a monthly rent of Rs.18,000/-. The rent was subsequently increased to Rs.20,000/-. The petitioner claims that he had obtained necessary license from the respondent-Corporation and also registered his business with Tamil Nadu Department of Industries and Commerce and he is paying professional tax to the Corporation of Chennai.

4. The petitioner would further state that in the year 2015, the landlord with the influence of politicians demanded increased rent and also constantly harassed forcing him to vacate the premises. Hence, a suit in O.S.No.4861 of 2015 was filed against the landlord for permanent injunction and in I.A.No.12465 of 2015, interim injunction was granted and the suit was decreed on 29.02.2016.

5. The further case of the petitioner is that he applied for renewal of license commencing from 01.04.2016 and paid necessary license fee of a sum of Rs.21,688/- by way of Demand Draft on 18.03.2016. Since the license was not renewed, he filed a Writ Petition in W.P.No.16921 of 2016 and this Court, on 01.06.2016, directed the respondents to consider his application on merits. After enquiry, the application was rejected and he challenged the order in W.P.No.41001 of 2016 and in the meanwhile he was advised to prefer an appeal to the Standing Committee against the order of license dated 15.09.2016. While so, the third respondent on 21.07.2017 served the impugned notice and sealed the premises on 22.07.2017. According to the petitioner when his appeal was pending consideration, the third respondent ought not to have taken coercive steps to seal the premises.

6. The third respondent has filed a counter denying the allegations of the petitioner and stated that on receipt of complaints from the public, the District Environmental Engineer, Tamil Nadu Pollution Control Board inspected the petitioner's factory on 03.11.2015 and after inspection, the District Environmental Engineer forwarded a letter dated 06.11.2015 to the third respondent to take appropriate action against the petitioner for operating his unit in a residential area and creating nuisance to the public. The third respondent inspected the manufacturing unit of the petitioner on 03.08.2016 and found that the petitioner is running plastic bags manufacturing unit using 42.5 HP motors in violation of license accorded for running 5 HP motors and in the meanwhile, the petitioner filed a Writ Petition in W.P.No.16921 of 2016 and as per the directions issued by this Court in the above Writ Petition, dated 01.06.2016, the first respondent-Revenue Officer conducted enquiry and rejected the renewal application of the petitioner dated 18.03.2016.

7. It is further stated that in the counter that the petitioner failed to obtain consent from the Tamil Nadu Pollution Control Board as per Rule 3(f) of Plastic Waste Management Rules, 2016 and the petitioner withdrew the Writ Petition No.41001 of 2016, which was filed challenging the rejection of the trade license of the petitioner. Since it was found that on 03.08.2016, the petitioner was running the industry without any valid license, an action was taken under Section 379(A) of the Chennai City Municipal Corporation Act and prayed for dismissal of the Writ Petition.

8. The fourth respondent in his counter has stated that the petitioner taken the premises for trading plastic materials in the name and style of "Mahaveer Agencies", but later without their consent, he had started plastic manufacturing unit. The license for trading plastic materials was granted till 31.03.2016 and he as the owner of the premises received various

complaints from the neighbours and the general public against the petitioner manufacturing unit. So, he requested the petitioner to stop the manufacturing process. He further alleged that the petitioner was adamant and he was not inclined to stop the manufacturing process and hence, he preferred a complaint to P6 Police Station, Kodungaiyur, Chennai and an acknowledgment was issued on 04.07.2015. It is further stated that due to the objection from the landlord as well as from the general public, the renewal of license was not granted, but the petitioner was found in continuing the manufacturing process without any license and in violation of the statutory provisions including Air and Water Act and the act of the petitioner causes health hazard to the general public. When the petitioner himself admits that he has preferred an appeal against the order of the denial of the license renewal, these Writ Petitions are not maintainable.

9. Heard Mr.Samir S.Shah, learned counsel for the petitioner; Mr.T.C.Gopalakrishnan, learned Standing Counsel for the respondents 1 to 3; Mr.M.Velmurugan, learned counsel for the fourth respondent; Mr.P.R.Dhilip Kumar, learned Standing Counsel for the fifth respondent and perused the materials available on record.

10. The undisputed facts are that the premises bearing door No.19, Dr.Radha Krishnan Salai, Vivekananda Nagar, Chennai - 118, belongs to the fourth respondent family and it was leased out to the petitioner in the year 2010. The official respondents granted Trade license under Section 287 of the Chennai City Municipal Corporation Act till 31.03.2016 and the petitioner's renewal application was rejected by the respondent on 15.09.2016. It seems that the landlord and tenant were not in good terms and the suit instituted by the tenant in O.S.No.4861 of 2015 was decreed granting permanent injunction in favour of the tenant. According to the respondents 1 to 3, the petitioner is running a plastic manufacturing industry in a "Mixed Residential Zone" and on 03.08.2016, he was found running the plastic manufacturing unit using 42.5 HP, whereas the license was issued for 5 HP.

11. Perusal of the records would reveal that during the pendency of the Writ Petition, this Court on 27.07.2017, directed the respondents to de-seal the premises on 28.07.2017 to enable the petitioner to take away the goods and cheque books and other records and by an order dated 20.11.2017, on the basis of the representation for replacing 5 HP motor instead of 42.5 HP motor, this Court directed the official respondents to remove the seal. But the fact remains despite subsequent orders on 18.12.2017 and 02.03.2018, for some reason or other no replacement of 42.5 HP motor had taken place.

12. It is an admitted fact that as per the license, the petitioner was permitted to have a 5 HP motor to run the industry. It is not in dispute that the petitioner withdrew the Writ Petition No.41001 of 2016 filed challenging the rejection of renewal of license and he is said to have preferred an appeal before the Standing Committee, but no material has been placed to show that the appeal preferred by the petitioner is pending before the Committee.

13. The main contention of the petitioner is that when his appeal was pending, the respondent has no authority to seal the premises, but I find it difficult to accept the case of the petitioner due to the reason that even after expiry of license on 31.03.2016, the petitioner was found running the business on 03.08.2016 without license. As stated above, the petitioner has not placed any material to establish pendency of appeal before the Committee. Even assuming that the appeal is pending, unless he succeeds before the Appellate Authority, the petitioner is not entitled for direction to renew the license.

14. In the light of the above facts and findings, I find no merit in these Writ Petitions. In fine, both Writ Petitions fail and the same are dismissed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

//True Copy//

Sd/-

Assistant Registrar(CS IV)

Sub Assistant Registrar

r n s

To

- सत्यमेव जयते
- 1.The Revenue Officer,
Corporation of Chennai, Zone - 4,
Rippon Building,
Chennai - 600 003.
 - 2.The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai - 600 003.
 - 3.The Zonal Officer IV,
Tondiarpet, Greater Chennai Corporation,
Zonal IV.

+1 cc to the shah and shaj Advocate sr 36185
+1 cc to M/s.T.G.Gopalakrishnan Advocate sr 35545

W.P.No.19332 of 2017 & W.M.P.No.20848 of 2017 &
W.P.No.19333 of 2017

aa21/06/2018



WEB COPY