

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Writ Petition No.24167 of 2018
and
W.M.P.No. 28166 of 2018

PML Kalyanasundarm Trust,
Rep by its Chairman-cum-Managing Trustee,
K.Priyadarshini.

... Petitioner

Vs.

1. The Chief Secretary,
Chief Secretariat,
Puducherry - 605 001.

2. The Commissioner,
Oulgaret Municipality,
Jawahar Nagar,
Oulgaret Commune,
Puducherry 605 005.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records leading to the impugned order dated 07.09.2018 passed by the 2nd respondent herein and consequently direct the 2nd respondent herein to permit the petitioner Trust to continue its service of providing pottable drinking water to the general public.

For Petitioner : Mr.A.Tamilvanan

For Respondents : Mr.A.Gandhiraj,

Government Advocate (Puducherry),

Assisted by Mr.J.Kumar,

Government Advocate (Puducherry).

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O R D E R

The writ petition is filed challenging the order passed by the 2nd respondent Municipality, taking over the R.O.Unit(Reverse Osmosis Unit) from the petitioner.

2. The grievance of the petitioner is that the petitioner's Trust earlier entered into an agreement with the 2nd respondent Municipality, on 20.02.2014 for supplying of potable drinking

water to the village of Pillai Chavadi, Periakalapet, Chinna Kalapet and Knagachettikulam, which are all comes under the jurisdiction of the 2nd respondent Municipality. The petitioner is providing Reverse Osmosis (R.O) treated drinking water to the above villages with free of cost and the petitioner's Trust has also spent several Lakhs for lease and erecting the RO plant and it is also spending huge amount towards the maintenance and labour. The license was granted for the period of three years and during the currency of the license period the 2nd respondent issued show cause notice on 13.10.2016 making some allegation against the petitioner for which the petitioner also send a suitable reply. Thereafter, the 2nd respondent has terminated the agreement by order dated 24.02.2017, and directing the petitioner's Trust to stop the activities in respect of three RO Units.

3. Challenging the above order the petitioner already filed an appeal before the 1st respondent and the appeal is pending. Pending the above appeal now the impugned order has been passed by the 2nd respondent on the ground that earlier by an order dated 03.03.2017 the petitioner's trust was directed to hand over the RO Unit. Since they failed to do the same they want to take over the entire RO Units with effect from 07.09.2018, by challenging the above order the present writ petition has been filed.

4. The 2nd respondent has filed a counter affidavit wherein, it is stated that the petitioner was granted license only for the period of three years for supplying drinking water and they had also entered into a agreement. The petitioner violated the condition of the agreement and numerous complaints have been received from the general public against the petitioner. Hence, by an order dated 24.11.2016, the Municipality has directed the petitioner to stop the supply of drinking water. Subsequently, by an order dated 24.02.2017 the petitioner was directed to stop supplying of RO water in three sites.

5. Now challenging the above order the petitioner also filed an appeal before the 1st respondent which is also not maintainable. Since the petitioner did not hand over the RO Units, now the Municipality has carry out the repairs of all the RO Units and its effective maintenance for continuous supply of RO drinking water to the people of Kalapet through M/s Strides Shasun Limited (now called as SOLARA Active Pharma Science Limited). Admittedly the petitioner license has been terminated as early as on 24.02.2017. Now challenging the order the petitioner also filed an appeal before the 1st respondent and the appeal is pending.

Subsequently, pursuant to the termination of the petitioner's license the 2nd respondent directed the petitioner

to vacate the premises. Since the petitioner did not come forward to vacate the premises the impugned order has been passed for taking over the above RO Units from the petitioner and the order impugned in the writ petition is only a consequential order pursuant to the earlier orders of the termination of license.

6. The order impugned in the Writ Petition is only a consequential order, pursuant to the order of termination of license. Now challenging the order of termination, admittedly an appeal has been filed before the 1st respondent and the appeal is pending.

In such circumstances without going into the merits of the case, this Court is of the view it is suffice to direct the 1st respondent to consider the petitioner's appeal filed on 14.03.2017 and pass orders on merits in accordance with law within a period of 6 weeks from the date of receipt of the copy of this order, after giving an opportunity to the petitioner. Till the appeal is disposed of by the 1st respondent, the 2nd respondent is directed not to take over the RO Units from the petitioner. With the above direction the writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

msvm

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Chief Secretary,
Chief Secretariat,
Puducherry - 605 001.
2. The Commissioner,
Oulgaret Municipality,
Jawahar Nagar,
Oulgaret Commune,
Puducherry 605 005.

+1cc to Mr.A.Tamilvanan, Advocate S.R.No.68645

KR/30/10/18

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