

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.12.2018

CORAM

THE HON'BLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.34666 of 2018

and

W.M.P.Nos.40201 and 40203 of 2018

Srivasavi Sweets and Bakery Preparation Centre,
Represented by its Sole Proprietor,
B.Yuvarajkrishnan,
No.78, Sitco Near, Thirumalai Thirupathy Nagar,
Kachirapalayam Road,
Kallakurichi,
Villupuram District 606 202 ... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by its Secretary,
Municipal Administration,
St.George Fort, Chennai.
2. The Commissioner,
Kallakurichy Municipality,
Villupuram District ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.3569/2018/A4 dated 21.12.2018 from the file of the second respondent and quash the same.

For Petitioner ... Mr.R.Ganesan
For Respondent-1 .. Mr.D.Surya Narayanan
Additional Government Pleader
For Respondent-2 .. Mr.M.Elumalai
Government Advocate

ORDER

By consent, this Writ Petition is taken up for final disposal at the admission stage itself.

2. This Writ petition has been filed seeking for the issuance of Writ of Certiorari to call for the records

pertaining to the impugned order, issued by the second respondent in Na.Ka.No.3569/2018/A4 dated 21.12.2018 and quash the same.

3. The petitioner was given Form-C licence on 24.04.2017 by the Designated Officer, Food Safety and Standards Act, Collectorate, Villupuram, which is valid upto 23.04.2022. Based on the complaint given by one Vandarayan, who has been admittedly not made as a party for the reasons best known to the petitioner, the manufacturing unit was temporarily closed. Challenging the same, the present Writ Petition has been filed.

4. Heard both sides and perused the materials available on record.

5. It is seen from the records that the petitioner was running a factory and he has not obtained prior permission for running manufacturing unit and it was temporarily kept under lock and seal. From the undated letter of the petitioner as filed in page 5 of the typed set of papers filed along with the Writ Petition, it is clear that he was running a factory and manufacturing of sweets and he has agreed that the furnace used for manufacturing sweets with the help of wood, had been removed and that the chimney has also been removed. From this, it is clear that he was running the business activities and manufacturing process. That apart, the Fire Service Department has also given No Objection Certificate on 06.12.2018 stating that there is no objection from the Fire Service point of view to grant licence to the said premises for Small Scale Industrial-Sweet Manufacturing. From the aforesaid certificate, it is clear that the industrial activities were going on with regard to manufacturing of sweets.

6. From the communication dated 20.11.2018, it is clear that there has been a clear violation with regard to the storage of water, which has caused water pollution and because of discharge of waste water, lot of mosquitoes were breeding in the said areas, which may also lead to different types of diseases. Even though the petitioner has stated that he has constructed a septic tank for the purpose of removing the waste water, it is clear that the licence renewed by the Tamil Nadu Food Safety and Drug Administration Department has been cancelled on 27.12.2018. Further, from the photograph produced by the respondents, it is clear that the ground water has been completely spoiled because of collection of waste water. It is also stated by the respondents that the petitioner has not obtained prior permission for running the factory and that several applications made by the petitioner are pending before the authority concerned, which are yet to be considered.

7. As long as there is no safety of ground water and that the petitioner was carrying on his manufacturing activities without prior permission and that Food Safety Department has cancelled the licence on 27.12.2018 and that the manufacturing business was carried on in an unauthorised building, i am of the view that the relief sought for by the petitioner cannot be granted.

8. Even assuming for the sake of argument that the impugned order is with regard to the closure of the unit temporarily, taking note of the subsequent cancellation by the Food Safety Department on 27.12.2018, no activity can be carried on by the petitioner, the Writ Petition is dismissed not only on merits, but also on the ground of non-joinder of necessary parties, as the complainant has not been made as a party to the Writ Petition. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar/Vacation Officer

//True Copy//

Sub Assistant Registrar

arr/vsm/srn

To

1. The Secretary,
State of Tamil Nadu,
Municipal Administration,
St.George Fort, Chennai.
2. The Commissioner,
Kallakurichy Municipality,
Villupuram District

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CSL/02.01.2019

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