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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**
**DATED : 02.03.2018**
**CORAM:**
**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM**
**and**
**THE HONOURABLE MRS.JUSTICE R.THARANI**
**W.P.(MD) No.4441 of 2018**
**and**
**W.M.P.(MD) No.4533 and 4534 of 2018**

Jai Advertisements rep. by its
Proprietor Mr.P.Chellapandi,
Nos.1,2, Kavery Nadhi Street,
S.Alangulam, Madurai 625 014. ... Petitioner

-vs-

1. The Commissioner of Police,
   Office of the Commissioner of Police,
   Madurai Municipal Corporation,
   Madurai, Tamil Nadu.

2. The Commissioner,
   Corporation of Madurai,
   Madurai Municipal Corporation,
   Madurai, Tamil Nadu.

3. The District Collector,
   Office of District Collectorate,
   Madurai, Tamil Nadu.

4. The Deputy Commissioner (L&O)
   Office of Deputy Commissioner,
   Madurai, Tamil Nadu. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certioararified Mandamus, calling for the records of the 3rd respondent in his proceedings No.ROC No.4368/2018/RD 10 dated 22.02.2018 and to quash the same and directing the 3rd respondent to process, consider and issue license with reference to the application of the petitioner dated 24.01.2018.

For Petitioner : Mr.S.Sundaresan
For Respondents : Mr.V.R.Shanmuganathan, Spl.G.P.
For RR1,3 and 4
Mr.R.Murali for R2

**O R D E R**

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**(Order of the Court was made by T.S.SIVAGNANAM, J.)**

Heard Mr.S.Sundaresan, learned counsel for the petitioner and

Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1, 3 and 4 and Mr.R.Murali, learned counsel for the second respondent.

2.The petitioner is an advertisement agency and in this writ petition, they have challenged the proceedings of the third respondent, the District Collector, Madurai District. The petitioner had approached this Court earlier and filed W.P.(MD) No.604 of 2018, praying for a direction to forbear the respondents 1 to 3 herein from any way interfering or removing the hoardings and display boards installed in the signal (traffic signal) as found in the No Objection Certificate (hereinafter mentioned as NOC) granted by the respondent vide proceedings dated 04.07.2013 and NOC issued by the second respondent dated 11.10.2013. The respondents resisted the prayer sought for in the writ petition by contending that the petitioner had obtained NOC only from the first respondent, but had not obtained license as per Section 3 of Tamil Nadu Urban Local Bodies Licensing of Hoardings and Levy and Collection of Advertisement Tax Rules 2003. Further, it was stated that the petitioner is required to get plan approved by the qualified Engineer and no objection from the Engineer or State or the Municipality concerned and certificate from the police officer and mere granting of NOC is not enough. Further, it is submitted that the petitioner has not adhered to the condition imposed in NOC by which 1/3rd space has to be given for advertising road traffic rules. The petitioner contended that they have already applied to the District Collector for securing a license.

3.The Court noting that the petitioner has been in the business since 2013 well within the knowledge of the respondents, had he committed any violation, it was always open to the authorities to point out the violation or non compliance of the conditions and directed the petitioner to comply with the same. But, without doing so, the respondents, all of a sudden, cannot stop or prohibit the petitioner from doing business, which he was carrying on for four years. Further, the Court pointed out that if the petitioner had not complied with Rule 3 of the Tamil Nadu Urban Local Bodies Licensing of Hoardings and Levy and Collection of Advertisement Tax Rules 2003, the respondents should not have allowed the petitioner to start the business by removing advertisement board, which were erected in the year 2013 and they have been in deep slumber for four years, all of a sudden, cannot now target the petitioner and prohibit him from carrying on his business. After making such observation, the Court proceeded to direct the petitioner to file an application before the District Collector, Madurai, the third respondent herein and the following directions were issued to the petitioner as well as the third respondent:

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"(i)The petitioner shall apply to the third respondent for getting license within a period of two

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weeks;

(ii)On such receipt of the application, the third respondent shall taken into consideration the NOC granted by the Commissioner of Police, Madurai City in 2013 and running of business by the petitioner continuously from 2013 onwards and pass appropriate orders.

(iii)The petitioner shall provide 1/3 space for advertising road traffic rules as per the advice of the police authorities.

(iv)Till the decision is taken by the third respondent and informed to the petitioner and the same is filed before this Court, the respondents are prohibited from interfering with the petitioner's business."

4.In terms of the above direction, the petitioner had applied to the third respondent on 24.01.2018 for grant of license for hoardings in 9 locations falling within the jurisdiction of the Madurai City Municipal Corporation. The said applications have not been processed rather returned unprocessed by the impugned order. The reason assigned in the impugned order is that the petitioner's application is contrary to the guidelines of the Ministry of Road Transport and Highways, Government of India vide circular dated 16.05.2002. Apart from that, the third respondent has referred to the judgment of the Division Bench in a public interest litigation in W.P.No.41289 of 2016 dated 30.10.2017 and after quoting paragraphs 5 and 7 of the judgment informed the petitioner that their application for license cannot be processed further.

5.On a perusal of the impugned order, we find that the third respondent has not stated as to why the application filed by the petitioner for grant of license to erect advertisement boards in traffic signal in 9 locations is contrary to the guidelines of the Union of India. The third respondent was required to state as to why the application cannot be permitted and as to whether it is on the National Highway qua right of way and whether it would fall under the exceptions pointed in the guidelines.

6.No doubt, it is true that in the public interest litigation filed by the Coimbatore Consumer cause in W.P.41289 of 2016, the Division Bench took note of the guidelines and also the rampant increase in the number of hoardings on the national highways as well as the State Highways issued certain directions. In the impugned order, paragraphs 5 and 7 have been quoted. However, we feel that paragraph 8 of the order is also relevant, which reads as hereunder:

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"8. The 16th respondent is hereby directed to complete the task undertaken as submitted in its counter affidavit. Needful will have to be done within

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a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that our direction is with specific reference to the advertisement qua right of way."

7.In terms of the above direction, the Union of India was directed to complete the task undertaken as submitted by them in counter affidavit and needful will have to be done within a stipulated time and it was made clear that the direction issued by the Division Bench is with specific reference to the advertisement qua right of way.

8.The Special Government Pleader would vehemently contend that the Division Bench has held that the guidelines uniformly apply for all roads viz., National and State Highways and therefore the respondent was satisfied in stating that the application given by the petitioner cannot be processed further. We are not convinced to accept the said submission.

9.The said impugned order does not state as to how right of way as pointed out by the Division Bench has been affected or infringed. That apart the Division Bench while issuing direction added a caveat stating that their direction is with specific reference to the advertisement qua right of way. Therefore, this important aspect has to be considered and this should be by a speaking order. Each application for a particular site needs to be examined as to whether it infringes the direction issued by the Division Bench, which is a sequel to the circular issued by the Government of India.

10.Be it noted that both the guidelines framed by the Government of India as well as the rules framed by the State Government do not impose a complete ban. However, the Courts are concerned about the indiscriminate erection of hoardings on centre medians and road margins regardless of the inconvenience caused to the public. Recently, the Hon'ble First Bench has also made certain observations with regard to the lackadaisical approach of the State in not regulating the unauthorised and illegal hoardings. Admittedly illuminated signs or very prominent sign boards located in a traffic signal will be traffic hazardous. However the guidelines are comprehensive and the rules framed by the State Government also lays down strict parameters. But the only issue is the authorities have to strictly enforce the rules and guidelines and should do so without any discriminate from any quarter.

11.For the above reasons, we do not approve the manner in which the petitioner's applications have been dealt with and therefore, we are inclined to interfere with the impugned order and accordingly the same is set aside and the third respondent is directed to process each individual application separately and

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consider as to whether they satisfy the rules framed by the State Government, the circular issued by the Government of India, which has been directed to be strictly enforced by the Division Bench in the public interest litigation in Coimbatore Consumer Cause (supra). The above direction to be complied with by the third respondent within a period of three weeks from the date of receipt of a copy of this order.

12.This writ petition is allowed with the above observations and directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner of Police,
   Office of the Commissioner of Police,
   Madurai Municipal Corporation,
   Madurai, Tamil Nadu.

2. The Commissioner,
   Corporation of Madurai,
   Madurai Municipal Corporation,
   Madurai, Tamil Nadu.

3. The District Collector,
   Office of District Collectorate,
   Madurai, Tamil Nadu.

4. The Deputy Commissioner (L&O)
   Office of Deputy Commissioner,
   Madurai, Tamil Nadu.

+1cc to Mr.S.Sundaresan, Advocate Sr.No.52580
+1cc to Mr.R.Murali, Advocate Sr.No.52731
+1cc to Spl.Government Pleader Sr.No.53320

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VB/KLK/SAR3/16/03/2018/5P/8C



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