



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2018

CORAM:

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P. (MD) No.803 of 2018

S.Murugavel

... Petitioner

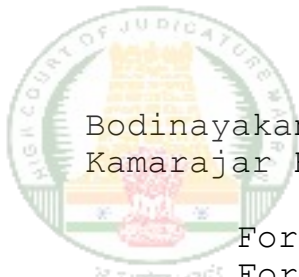
-Vs-

1. The District Collector,
Theni District.
2. The District Officer,
Fire Service & Rescue Department,
Theni District.
3. The District Child Protection Officer,
Collectorate Complex,
Theni District.
4. The Designate Officer,
Food Safety Wing,
Theni District.
5. The Deputy Director of Health,
Public Health Department,
Theni District.
6. The Tahsildar,
Bodinayakanur,
Theni District.
7. Thirumalapuram Nadargal Urawinmurai Sangam,
(Reg.No.177/98),
Represented by its President,
Thiru.M.V.C.Suriyan
No.35, Bazar Street, Thirumalapuram,
Bodinayakanur, Theni District.

... Respondents

(R7 is impleaded vide Court order dated 23.01.2018 in W.M.P. (MD) No.1317 of 2018)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 2 to 6 to issue the necessary certificate in favour of the petitioner's Hostel and the first respondent to consider the certificate and issued the license for running the petitioner's Hostel in the name and style of



Bodinayakanur Thirumalapuram Nadar Uravinmuraiku Pathiyapatta
Kamarajar Hostel within 07.03.2018.

For Petitioner : Mr.H.Velavadhas
For R1 to R6 : Mr.M.Rajarajan, G.A.
For R7 : Mr.S.C.Herold Singh

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ORDER

The Writ Petition has been filed, seeking a direction to the respondents 2 to 6 to issue licence to the petitioner for running the Hostel viz., Bodinayakanur Thirumalapuram Nadar Uravinmuraiku Pathiyapatta Kamarajar Hostel.

2. According to the petitioner, he is one of the member of Bodinayakanur Thirumalapuram Nadar Uravinmuraiku Pathiyapatta Kamarajar Students Hostel Sangam. The said Sangam is running a hostel for the past 8 years. At present, nearly 88 students are staying in the said hostel. Earlier, a Writ petition under Public Interest Litigation has been filed in W.P.(MD)No.12422 of 2017 to close the said hostel. In the said Writ Petition, the Hon'ble Division Bench of this Court directed the petitioner and four others to make an application for granting license to the said hostel before the authorities concerned and on filing of such application, the authorities are directed to grant licence within a period of six months. Pursuant to the order passed by the Division Bench of this Court, the petitioner made applications to various authorities and obtained no objection certificate and produced the same before the first respondent. Now, the first respondent is the authority to pass orders. But, so far, no order has been passed, hence, the present Writ Petition has been filed.

3. One M.V.C.Suriyan, who is the President of the said Sangam, has filed an impleading petition, opposing the Writ petition on the ground that the petitioner has no right to get license from the authority. Challenging the order of the Division Bench of this Court, the impleading petitioner filed a Special Leave to petition in S.L.P.No.34064 of 2017 before the Hon'ble Supreme Court of India and the Supreme Court, by an order dated 15.12.2017, held that the dispute between the parties will be gone into in the pending suit, including the rights of the original writ petitioner and four others. In view of the same, when the suit filed by the petitioner is pending, the petitioner is not entitled to seek any relief at this stage.

4. I have heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 to 6 and the learned counsel for the 7th respondent and perused the materials available on record carefully.

5. Admittedly, there is a dispute between the parties in managing the aforesaid sangam. Earlier, in the Public Interest Writ



petition in W.P.(MD)No.12422 of 2017, the petitioner was arrayed as the fourth respondent and the Division Bench of this Court, by an order dated 03.08.2017, passed the following order.

"4.This is because the students from 6th to 12th standard who hail from rural areas, numbering around 90 are presently staying in the hostel. They have already taken steps to secure various certificates such as Building Stability Certificate, Fire Certificate, Sanitary Certificate etc., Those Certificates are necessary to apply for licence under the said Act. The authorities had given them six months time to complete the entire process.

5.We, therefore, dispose of the writ petition giving liberty to the respondents 4 to 8 herein to obtain the licence under the Tamil Nadu Hostels and Homes for Women and Children (Regulation) Act, 2014, within a period of six months from the date of receipt of copy of this order. The authorities shall be at liberty to take action if licence is not obtained, even after the said period of six months."

The above order has been challenged by the 7th respondent before the Supreme Court in S.L.P.No.34064 of 2017 and the Supreme Court, by an order dated 15.12.2017, passed the following order:

"We have heard learned counsel for the petitioner.

We do not find any ground to interfere with the impugned order. However, we make it clear that any dispute between the parties can be gone into in the pending suit including the rights of the original respondent Nos.4 to 8 in the writ petition."

6.On perusal of the order passed by the Supreme Court, it is made clear that the Hon'ble Supreme Court has not inclined to interfere with the order passed by the Division Bench of this Court. Further, it is only held that the dispute between the parties will be decided in the pending suit.

7.It is also submitted that a suit in O.S.No.48 of 2016 was also filed by the third party before the District Munsif Court, Bodinayakanur for declaration and now, the parties are taking steps to conduct election to the sangam. However, in view of the order passed by the Division Bench, the petitioner and four others are entitled to get licence.

8.In the above circumstances, as the petitioner's application is pending with the first respondent, the first respondent is directed to consider the petitioner's application and pass suitable orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. The petitioner is also directed to comply with all the requirements under the Tamil Nadu Hostel and Home for Women and



Children requirements Act, 2014.

9. With the above direction and observation, this Writ Petition is disposed of. No costs.

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Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Theni District.
2. The District Officer,
Fire Service & Rescue Department,
Theni District.
3. The District Child Protection Officer,
Collectorate Complex,
Theni District.
4. The Designate Officer,
Food Safety Wing,
Theni District.
5. The Deputy Director of Health,
Public Health Department,
Theni District.
6. The Tahsildar,
Bodinayakanur,
Theni District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 44011
+ 1 CC TO Mr.S.C.HEROLD SINGH, ADVOCATE IN SR No. 43397
+ 1 CC TO Mr.H.VELAVADHAS, ADVOCATE IN SR No. 43502

MYR

TE/SV-MMS/SAR-3 : 19/02/2018 : 4P/10C

W.P (MD) No.803 of 2018
23.01.2018