

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 25.04.2018****CORAM:****THE HONOURABLE MR. JUSTICE M.S.RAMESH****W.P. (MD) No.9395 of 2018**

S.Russel

... Petitioner

vs.

Kappiyarai Town Panchayat,
Kappiyarai Post - 629 156,
Kanniyakumari District,
represented by
The Executive Officer.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned proceeding of the respondent dated 10.04.2018 in Na.Ka.No.375/2017/A1 and quash the same.

For Petitioner : Mr.N.Dilip Kumar
For Respondent : Mr.Rajarajan

O R D E R

By consent of both counsels, this writ petition is taken up for final disposal.

2. In view of certain objection from the general public, show cause notices came to be issued to the petitioner dated 28.12.2017 and 25.01.2018 to which the petitioner claims to have given a reply on 11.01.2018. Pursuant to the show cause notices, the present impugned order has been passed on 10.04.2018 by observing that the petitioner has not produced five certificates, namely

- 1) Permission from the Health Department
- 2) Approval for running a Pig Farm in the petitioner's premises
- 3) Certificate from the Veterinary Doctor
- 4) Permission from the District Collector and
- 5) No Objection Certificate from the Village President or from an important person.

3. The learned counsel for the petitioner submits that among the five requirements, the fourth and fifth requirements are not mandatory under the Act of Tamilnadu District Municipalities Act



and as such he is not bound to furnish the same. In so far as the certificate from the Health Department, the petitioner is willing to give the same.

4. The petition for seeking approval for running the Pig Farm is now pending before the respondents herein. Since the petitioner has already produced the certificate from the Veterinary Doctor, he has made a specific request to direct the respondents to reconsider his renewal application.

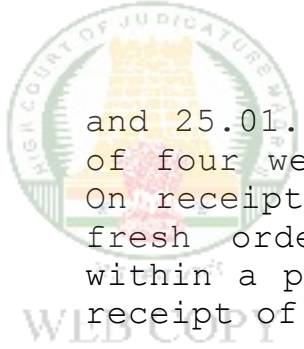
5. The learned counsel for the petitioner further submitted that pursuant to the show cause notices, he has given a detailed reply and there is nothing on record to show that his representation was considered. On perusal of the impugned order, it is seen that there is no reference to the reply given by the petitioner pursuant to the show cause notices. The very purpose for which the show cause notices were given to the petitioner is to call his objections and explanations and non-consideration of the same would amount to violation of the principles of natural justice.

6. The petitioner's application seeking for renewal of his license dated 11.01.2018 is now said to be pending before the respondent herein. Under Section 321 (11) of the Tamilnadu District Municipalities Act, whenever an application for renewal of license is pending for more than 60 days, a deemed approval clause enabling the applicant to run the license premises for a further period of one year.

7. In view of the submissions of the learned counsel for the petitioner his explanations were not be considered by the respondents and the impugned order came to be passed, it would be appropriate to direct the respondents to reconsider the petitioners request afresh, after giving him a due opportunity. Further, since the application for renewal of license dated 11.01.2018 is still pending with the respondent herein, it would not be appropriate for the respondent to insist upon the renewal license when the same is pending in their own office.

8. In the light of the above observations, the impugned order dated 10.04.2018 passed by the respondent herein is set aside and the matter is remitted back to the first respondent for fresh consideration. Such a consideration shall be made after the petitioner's application dated 11.01.2018 seeking for renewal of license is disposed of, which process of renewal shall be done within a period of two weeks from the date of receipt of a copy of this order.

9. In the meantime, the petitioner shall also produce a copy of the permission from the Health Department together with his explanations to the earlier show cause notices dated 28.12.2017



and 25.01.2018, along with a fresh representation within a period of four weeks from the date of receipt of a copy of this order. On receipt of such explanations, the first respondent shall pass fresh orders after giving due opportunity to the petitioner, within a period of four weeks thereafter, (ie.,) from the date of receipt of the petitioner's fresh representation.

10. In view of the deemed renewal clause under Section 321 (11) of the Tamil Nadu District Municipalities Act, the petitioner is permitted to continue running the Pig Farm at Vilakkanthottam, Kappiyarai post, Kanyakumari District, till the disposal of the petitioner's explanations to the show cause notices. The first respondent shall also furnish a copy of the objections received from the general public as well as the report of the Health Officer dated 20.02.2018, to the petitioner.

11. With the above observations, the writ petition stands disposed of. No costs.

sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

pnn

To:

The Executive Officer, Kappiyarai Town Panchayat,
Kappiyarai Post - 629 156, Kanniyakumari District,

+1cc to Mr.N.Dilipkumar, Advocate in SR.No.63774

GJM/MMS/SAR-I-28.5.18-2P-3C

W.P. (MD) No.9395 of 2018
25.04.2018