



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2018

CORAM:

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**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA**

W.P (MD) No.15959 of 2015
and
M.P (MD) No.1 of 2015

K.Thomas Samuel

... Petitioner

Vs.

1. The District Collector,
Collectorate,
Tirunelveli District.
2. The Commissioner,
Palayamkottai Panchayat Union,
Palayamkottai Panchayat Union Office,
Tirunelveli District.
3. The District Supply Officer,
District Supply and Consumer Protection Office,
Kokkirakulam, Collectorate,
Tirunelveli - 9.
4. The Panchayat President,
Melethidiyur Village,
Palayamkottai Taluk,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to form a new Fair Price Shop for PDS scheme at Melathidiyur Village, Palayamkottai Taluk, Tirunelveli District or shift the new Fair Price Shop to the Melathidiyur Village, which is being constructed at Naduthidiyur Village, Palayamkottai Taluk, Tirunelveli District within the time stipulated by this Court.

For Petitioner

: Mr.Mohammed Fazil
for Mr.T.Lajapathi Roy
: Mr.A.K.Baskara Pandian,
Special Government Pleader.
: Mr.C.Prithivi
for Mr.C.Selvaraj

For RR 1 & 3

For RR 2 & 4

**ORDER**

(Order of the Court was made by M.SATHYANARAYANAN, J.)

By consent, the Writ Petition itself is taken up for final disposal.

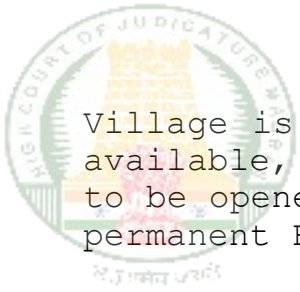
2.The present Writ Petition is filed as a 'Public Interest Litigation' by the petitioner, who belongs to Melathidiyur, Palayamkottai Taluk, Tirunelveli District and according to him, there are 518 permanent residents in their Village, namely, Melathidiyur Village and there are 140 family card holders available and insofar as Naduthidiyur Village is concerned, only 74 family card holders are available.

3.The grievance expressed by the petitioner is that since there are 140 family card holders are available in Melathidiyur Village, a permanent Fair Price Shop ought to have been constructed and since it has not been done, they have to walk nearly three kilometers to Naduthidiyur Village to get their essential commodities and in this regard, representations, dated 08.08.2015 and 10.08.2015 have been submitted and since no response at all is forthcoming, the petitioner is constrained to approach this Court by filing this Writ Petition.

4.The Writ Petition was entertained on 03.09.2015.

5.The third respondent has filed a counter-affidavit, dated 16.02.2018, wherein, he would state that the Mother Fair Price Shop is located at Naduthidiyur Village bearing Fair Price Shop No.27BP013 and there are 117 family card holders in the Village and insofar as Melathidiyur Village is concerned, 132 family card holders are available and as per the proceedings by the first respondent, dated 13.01.2016, a mobile Fair Price Shop has also been sanctioned and it is also functioning and it is further stated by the third respondent that as per G.O.Ms.No.147, Co-operation, Food and Consumer Protection (F1) Department, dated 24.08.2006, minimum 150 card holders are required to create a part-time Fair Price Shop in a Village with a minimum of 1.5 kilometer distance from the existing Fair Price Shop, whereas, Melathidiyur and Naduthidiyur is only 1.2 kilometer and on account of non-compliance of the said shop, it may not be possible to put up a part-time Fair Price Shop. However, taking into consideration, the need of the residents of the card holders of Melathidiyur Village is concerned, a part-time Fair Price Shop has already been opened and it is started.

6.The learned counsel appearing for the petitioner would submit that insofar as Naduthidiyur Village is concerned, admittedly, less number of family card holders are available, however, a permanent Fair Price Shop is available, whereas, in respect of Melathidiyur



Village is concerned, though many number of family card holders are available, only part-time Family Price Shop alone has been proposed to be opened and prays for appropriate orders for establishment of a permanent Fair Price Shop.

7. Mr. A.K. Baskara Pandian, learned Special Government Pleader appearing for the first respondent, would submit that in the light of the stand taken by the third respondent, it may not be possible to put up a permanent Fair Price Shop, however, a Mobile Fair Price Shop is available.

8. This Court has considered the rival submissions made on either side and perused the materials placed on record.

9. In the light of the stand taken by the third respondent in the counter-affidavit, dated 16.02.2018, for the present, it may not be possible for the third respondent to establish a permanent Fair Price Shop and however, by taking into consideration, the availability of Mobile Fair Price Shop, the third respondent shall ensure that it is properly functioning and see to that all essential commodities are made available to the family card holders of Melathidiyur Village. It is also made clear that if the said Village fulfills the norms in G.O.Ms.No.147, Co-operation, Food and Consumer Protection (F1) Department, dated 24.08.2006, a permanent Fair Price Shop is to be established, without any further loss of time.

10. The Writ Petition stands disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Collectorate,
Tirunelveli District.
2. The Commissioner,
Palayamkottai Panchayat Union,
Palayamkottai Panchayat Union Office,
Tirunelveli District.
3. The District Supply Officer,
District Supply and Consumer Protection Office,
Rokkirakulam, Collectorate,
Tirunelveli - 9.



4. The Panchayat President,
Melethidiyur Village,
Palayamkottai Taluk,
Tirunelveli District.

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+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 54916

PS

TE/SKN-RSK/SAR-1 : 26/03/2018 : 4P/6C

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M.P (MD) No.1 of 2015
12.03.2018