

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.15814 of 2009 and
M.P.No.1 of 2009

V.D.Ravichandran

... Petitioner

Vs

1. Corporation of Chennai
rep. by its Zonal Officer, Zone V,
Assistant Health Officer-Zone V,
183, EVR Salai, Kilpauk,
Chennai-10.

2. Villivakkam Exnora Innovators Club,
A Unit of Exnora International,
Chennai-17,
No.5/3, Adhi Naidu Street,
Villivakkam, Chennai-49
rep. by its President P.Ramanujam

... Respondents

(R2 impleaded as per order dated
11.12.2012 made in MP.1/11 in W.P.15814/2009)

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the proceedings of the 1st respondent in their Notice No.11713 dated 18.7.2009 and the consequential notice in Ka.No.1025/2009 dated 3.8.2009 and quash the same.

For Petitioner :Mr.R.Suresh Kumar

For 1st Respondent :Mr.A.Nagarajan,
Standing Counsel

O R D E R

This Writ Petition has been filed, challenging the impugned Notice No.11713 dated 18.7.2009 and the Consequential Notice in Ka.No.1025/2009 dated 3.8.2009 of the 1st respondent issued against the petitioner and to quash the same.

2. Learned Counsel appearing for the petitioner submitted that the petitioner has been running a licensed Chicken Stall for the last 12 years at No.20, A/2, Adhi Naidu Street, Villivakkam, Chennai in the name and style of M/s.Chennai Proteins after renewing the licence periodically as per the conditions stipulated therein. While so, the 1st respondent issued a notice dated 18.7.2009, served only on 25.7.2009 in the shop, under Section 309 of the Chennai City Municipal Corporation Act alleging the continuation of business contrary to the conditions of licence. Since the petitioner was out of India at that time, after returning to India, the petitioner approached the 1st respondent intimating the compliance of the order dated 18.7.2009. However, the 1st respondent proceeded to issue a consequential Show Cause Notice on 3.8.2009 asking the petitioner to show cause as to why the licence given to run the Chicken Stall should not be cancelled for which the petitioner has given his reply on 5.8.2009 intimating the 1st respondent that all the defects were rectified and requested to reinspect the stall and forbear from in any manner invoking Section 379-A of the City Municipal Corporation Act, leading to closure of the shop. But the 1st respondent without considering the same proceeded to seal the petitioner's Chicken shop. Therefore, the present Writ Petition has been filed.

3. The learned Counsel for the petitioner assailing the impugned show cause notice submitted that since the show cause notices were issued by mentioning an unreasonable condition among other conditions that the petitioner should not keep the live birds inside the premises because it would cause public nuisance, the same have been questioned. The learned Counsel also stated that the other conditions were already rectified. Therefore, the impugned show cause notices have to be set aside by allowing the present Writ Petition.

4. Mr.A.Nagarajan, learned Standing Counsel for the 1st respondent submitted that since the Condition No.3, namely, live birds should not be kept inside the premises because it would cause public health nuisance is totally unsustainable and unreasonable, subsequently, the petitioner was directed to rectify only the other 3 defects, namely, 1. No automatic fly proof door was provided; 2. Waste container kept opened and 3. Licence copy not displaced as per licence terms and conditions. Therefore, the present Writ Petition has to be dismissed as the impugned show cause notice containing unreasonable condition has not been pressed by the 1st respondent.

5. Although this Court initially found fault with the petitioner, after reading the show cause notice dated 18.7.2009 and the consequential notice dated 3.8.2009 finds that the 3rd

condition, namely, the petitioner should not keep the live birds inside the premises because it is the cause of public health nuisance, this Court is fully in favour of the petitioner because the 1st respondent should not have issued such a show cause notice. Today, if any Chicken Stall is keeping any dead chicken that would be only causing public health nuisance not only to the people who are visiting the said stall and also to the consumers. Therefore, it appears that the Officer who issued the said show cause notices has not been applied his mind. So far as the other defects are concerned, it is stated by the learned Counsel for the petitioner that they have already been rectified. However, this Court is of the view that they are rectifiable at the earliest. Hence, the impugned show cause notices are liable to be set aside.

6. Accordingly, the impugned show cause notice dated 18.7.2009 and the consequential notice dated 3.8.2009 are set aside, however, the petitioner is directed to keep the chicken stall premises with all hygienic conditions up to the expectation of the Corporation. He is also directed to rectify the defects pointed out by the 1st respondent, namely, to instal automatic fly proof door, also keep sufficient Waste Containers both inside and outside the premises and to display a copy of the Licence visible in the Chicken Stall as per the licence terms and conditions, if not done already, within a period of one week from the date of receipt of a copy of this Order.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

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To

Zonal Officer, Zone V,
Assistant Health Officer-Zone V,
Corporation of Chennai
183, EVR Salai, Kilpauk,
Chennai-10.

+lcc to Mr.R.Suresh Kumar, Advocate Sr.29241

W.P.No.15814 of 2009

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srg 7/5/2019