

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 7/2/2019

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.3647 of 2019

S.Ganeshan

... Petitioner

Vs

1. The District Collector
Tiruppur District
Tiruppur.

2. The Commissioner
Corporation of Tiruppur
Tiruppur.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to forbear the respondents from constructing the garbage recycling centre in S.F.No.188 part, in No.3 Andipalayam Village, Tiruppur South, Tiruppur District, by considering the representation of the petitioner dated 4/1/2019.

For petitioner ... Mr.M.Lokesh

For respondents ... Mr.Akhil Akbar Ali
for R.1.

Ms.P.Shanthi
for R.2.

O R D E R

(Order of the Court was made by Subramonium Prasad,J)

Instant writ petition has been filed, praying to forbear the respondents, from constructing the garbage recycling centre, in S.F.No.188 part, in No.3 Andipalayam Village, Tiruppur South, Tiruppur District, by considering the representation of the petitioner, dated 4/1/2019.

2. It is the contention of the petitioner that based on the Central Government's AMRUT scheme, a water overhead tank, having capacity of 20 lakhs litres of water, with a capacity of 2 lakhs litres of water tank, under construction by the Tamil Nadu Water and Supply Department (TWAD), is on the western side and eastern side of S.F.No.188. Petitioner states that along with others, Corporation of Tiruppur, has also constructed a recycling centre, for trash and garbage, in between the two drinking water storages as well as on the western side of the Sinnadipalayam pond.

3. The petitioner would state that though initially the programme was shelved. It has been restarted. Petitioner would also say that there is a huge pond, in S.F.No.187. Petitioner states that the recycling centre, for trash and garbage in the village would affect the nature, pollute the water in the surrounding and unpleasant smell will be generated by the centre.

4. Heard Mr.M.Lokesh, learned counsel for the petitioner, Mr.Akhil Akbar Ali, Government Advocate for the first respondent and Ms.P.Shanthi for the second respondent.

5. The Hon'ble Supreme Court in BALCO EMPLOYEES'UNION (REGD) Vs. UNION OF INDIA AND OTHERS {2002 (2) SCC - 333} has observed as under:-

"77. Public interest litigation, or PIL as it is more commonly known, entered the Indian judicial process in 1970. It will not be incorrect to say that it is primarily the Judges who have innovated this type of litigation as there was a dire need for it. At that stage, it was intended to vindicate public interest where fundamental and other rights of the people who were poor, ignorant or in socially or economically disadvantageous position and were unable to seek legal redress were required to be espoused. PIL was not meant to be adversarial in nature and was to be a cooperative and collaborative effort of the parties and the court so as to secure justice for the poor and the weaker sections of the community who were not in a position to protect their own interests. Public interest litigation was intended to mean nothing more than what words themselves said viz. "litigation in the interest of the public".

79. There is, in recent years, a feeling which is not without any foundation that public interest litigation is now tending to become publicity interest litigation or private interest litigation and has a tendency to be counterproductive.

80. PIL is not a pill or a panacea for all wrongs. It was essentially meant to protect basic human rights of the weak and the disadvantaged and was a procedure which was innovated where a public-spirited person files a petition in effect on behalf of such persons who on account of poverty, helplessness or economic and social disabilities could not approach the court for relief. There have been, in recent times, increasingly instances of abuse of PIL. Therefore, there is a need to re-emphasize the parameters within which PIL can be resorted to by a petitioner and entertained by the court. This aspect has come up for consideration before this Court and all we need to do is to recapitulate and re-emphasize the same.

88. It will be seen that whenever the Court has interfered and given directions while entertaining PIL it has mainly been where there has been an element of violation of Article 21 or of human rights or where the litigation has been initiated for the benefit of the poor and the underprivileged who are unable to come to court due to some disadvantage. In those cases also it is the legal rights which are secured by the courts. We may, however, add that public interest litigation was not meant to be a weapon to challenge the financial or economic decisions which are taken by the Government in exercise of their administrative power. No doubt a person personally aggrieved by any such decision, which he regards as illegal, can impugn the same in a court of law, but, a public interest litigation at the behest of a stranger ought not to be entertained. Such a litigation cannot per se be on behalf of the poor and the downtrodden, unless the court is satisfied that there has been violation of Article 21 and the persons adversely affected are unable to approach the court.

89. The decision to disinvest and the implementation thereof is purely an administrative decision relating to the economic policy of the State and challenge to the same at the instance of a busybody cannot fall within the parameters of public interest litigation.

6. No material has been filed by the petitioner to show how there is any chance of contamination. In fact, on the other hand, aerial view was shown to us, satisfies us that there is no chance of any contamination of the water in the pond. Recycling plan is at a considerable distance from the pond. Similarly, a capacity of two lakhs water tank is also at a considerable distance from the centre. The other tank which is of 20 lakhs litre capacity would be a covered water tank. It is not for the Courts to decide where garbage dumps etc., must be located. The Public Interest Litigation is only a waste of precious judicial time. The petitioner cannot just make bold averments and filed frivolous petitions without giving any material to support his averments.

7. The instant writ petition cannot be entertained and accordingly, the same is dismissed, with costs of Rs.10,000/- (Rupees Ten thousand only), to be paid to the District Collector, Tiruppur, within a period of ten days, from the date of receipt of a copy of this order. Failing which, the District Collector, Tiruppur, is permitted to take proceeding against the Revenue Recovery Act. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The District Collector, Tiruppur District , Tiruppur.

2. The Commissioner
Corporation of Tiruppur, Tiruppur.

+1 cc to M/s.Ma.P.Thangavel, Advocate Sr.No.10968

+1 cc to The Government Pleader, Sr.No.11334

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RK(CO)

CSL/12.03.2019