

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2019

CORAM

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.1752 of 2016

Smt.Rajeshwari Ayyamuthu

... Petitioner

--Vs--

1. The Commissioner,
Gobichettipalayam Municipality,
Gobichettipalayam.
2. The Revenue Divisional Officer,
O/o.Revenue Divisional Officer,
Gobichettipalayam, Erode District.
3. The Divisional Officer,
Fire Services,
Erode Division, Erode.
4. The District Collector,
O/o.District Collector Erode,Erode District.
5. The Director of Municipal Administration,
Government of Tamil Nadu,
Chepauk,
Chennai

...

Respondents

Prayer: Writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the first respondent dated 16.11.2015 bearing No.2063/2014/F1 and quash the same and consequently direct the first respondent to remove the fence as directed by the third respondent's report dated 06.09.2012 and the directions of the fifth respondent vide letter dated 10th July 2015 with a specific direction not to put up any obstruction in and around the western side of the park.

For Petitioner	:	Mr.M. Naraayanaswamy
For Respondent-1	:	Mr.RM.Muthukumar
For Respondents-2 to 5:	:	Mr.N.Inbanathan, Additional Government Pleader

O R D E R

The Writ Petition is filed by the petitioner-Gas Agency challenging the order passed by the first respondent dated 16.11.2015 bearing No.2063/2014/F1 and consequently to direct the first respondent to remove the fence as directed by the third respondent's report dated 06.09.2012 and the fifth respondent's letter dated July 2015 with a specific direction not to put up any obstruction in and around the Western side of the park.

2. The first respondent had issued a communication dated 06.12.2013 to the petitioner stating that they have received complaints against the petitioner for loading and unloading of gas cylinders, which are causing disturbance to the local people and to take action against them. Earlier on 24.11.2011, similar notice alleging traffic disturbance due to the heavy vehicles involved in loading and unloading of cylinders, was received and the said complaint was enquired by the third respondent herein. The report of the third respondent, vide letter R.O.C.No.21731/2015/TP1 dated ..07.2015 has clearly found that there is no statutory violation on the part of the petitioner and directed the first respondent to remove the unauthorized fencing. On the strength of the said communication, the present Writ Petition has been filed.

3. The District Collector, Erode District, who is the fourth respondent herein, vide letter dated 31.01.2012, has stated that a fence has been put up around the park, which was earmarked in the original layout to be used by the public. The fencing around the path is put up only as per the approved layout plan and there has been no encroachment made by any individual.

4. The learned counsel for the petitioner has fairly conceded that the said fencing is put up only as per the approved plan and not on the patta land of the petitioner or anybody else.

5. It is settled that once an area was gifted for a particular and specific purpose, especially, for a public purpose, the same should not be used for any other purpose.

6. The petitioner had also appeared before the first respondent and after hearing the petitioner and scrutinizing the relevant documents, the first respondent had passed the impugned order on 16.11.2015. When admittedly, the fencing is not put up on the private land of the petitioner, he cannot seek removal of fencing. In fact, it is the finding of the Officials that the heavy vehicles, which come to the petitioner's gas agency for loading and unloading, are causing serious traffic snarl and causing disturbance to the free movement of the vehicle.

7. It is the objection of the petitioner that the fencing is provided by the Resident Welfare Association and not by the Corporation. Though the fencing is provided by the Resident Welfare Association, it is only put up on the Municipal land, that too, for public purpose. The fence is only to safeguard the public from the Gas Agency, which is in the adjacent plot. Therefore, the impugned order is rightly passed based on the complaints received by the local public and the petitioner cannot have any grievance, if she is not aggrieved.

8. The inconvenience caused to the petitioner cannot be the reason for removal of the fencing around the public park. Hence, the Writ Petition deserves to be dismissed as devoid of any merits.

9. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Commissioner,
Gobichettipalayam Municipality,
Gobichettipalayam.
2. The Revenue Divisional Officer,
O/o.Revenue Divisional Officer,
Gobichettipalayam,
Erode District.
3. The Divisional Officer,
Fire Services,
Erode Division, Erode.
4. The District Collector,
O/o.District Collector Erode,
Erode District.

5. The Director of Municipal Administration,
Government of Tamil Nadu,
Chepauk,
Chennai.

+lcc to Mr.M.Naraayanaswamy, Advocate Sr.35614
+lcc to the Government Pleader Sr.35761

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mp[co]
srg 06/06/2019



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