

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.17551 of 2019

K.C.Palanisamy

... Petitioner

Vs.

1.The District Magistrate & District Collector,
Coimbatore District,
Coimbatore.

2.The District Environmental Engineer,
Tamilnadu Pollution Control Board,
Coimbatore South,
42-D, S.N.R.College road,
Peelamedu,
Coimbatore.

3.The Executive Officer,
Perur Town Panchayat,
Siruvani Mani Road,
Coimbatore

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure seeking to direct the 1st respondent to invoke his powers under Section 133 of Cr.P.C. and take appropriate and immediate action to direct the 3rd respondent to remove the obstruction/public nuisance made by him by illegally dumping and burning garbage nearby the Noyyal River in Survey No.161/2B in Perur Village & Taluk, Coimbatore within the time frame.

For Petitioner :Mr.S.Sathia Chandran

For Respondents:Mr.C.Raghavan
Government Advocate (Crl. Side)

ORDER

This petition has been filed for a direction to the first respondent to invoke his powers under Section 133 of the Code of Criminal Procedure and to take appropriate action in accordance with law.

2. The petitioner is a managing trustee of a trust called Cherran Foundation Trust. Several educational institutions are run by the trust and 1800 students are studying in the educational institutions. A boys' hostel belonging to the said trust is situated near the Noyyal river. This river is a source of drinking water for the villagers in and around that area.

3. The third respondent which is Perur Town Panchayat started dumping garbage into the land near the river and was also burning the waste and thereby polluting the entire vicinity. Therefore, the petitioner moved the National Green Tribunal seeking for a direction to the second respondent viz., the Tamil Nadu Pollution Control Board to initiate appropriate action against the third respondent.

4. The National Green Tribunal passed the following order on 11.08.2016:

"We have heard the learned counsel for the applicant. The averments are looked into along with the materials available. The Tribunal is satisfied that there exists a substantial question connected to and concerned with environment and ecology to be decided by the Tribunal. Hence, the application is admitted.

The dumping of garbage in Survey No.161/2, Perur Village and Taluk, Coimbatore is stated to have been done without authorisation from the Pollution Control Board. The Board in its letter dated 02.05.2016 has also admitted that the dumping of garbage is hazardous and the said dumping of garbage is near M/s.Cheran's College of Pharmacy, Telugupalayam Pirivu, Coimbatore. There has not been any application submitted to the Board by the 2nd respondent, Perur Town Panchayat for obtaining authorisation under the Municipal Solid Waste (MSW) Rules. In fact, the Board has also directed the 2nd respondent to identify an appropriate place for the disposal of Municipal Solid Waste. In spite of it, it is the case of the applicant, that the solid waste is being not only dumped but burnt in the place just adjacent to the College.

In view of the above, there will be an order of interim order against the 2nd respondent restraining from dumping and burning of garbage in S.No.161/2, Perur Village and Taluk, Coimbatore until further orders from this Tribunal."

5. After passing of the above order, for a temporary period, the third respondent viz., Perur Town Panchayat stopped

dumping the garbage. However, subsequently, they again started dumping the garbage and burning the waste and thereby, caused air pollution in the entire vicinity. This caused public nuisance. Therefore, a representation was made on 26.03.2018 to the first respondent requesting to take appropriate action to prevent public nuisance caused by the Panchayat by dumping and burning the garbage. In spite of the receipt of the representation, since the first respondent did not take any action to initiate proceedings under Section 133 of Cr.P.C, the present petition has been filed before this Court seeking for appropriate directions.

6. Heard Mr.S.Sathia Chandran, learned counsel for the petitioner and Mr.C.Raghavan, learned Government Advocate (Crl. Side) appearing on behalf of the respondents.

7. Taking into consideration of the facts and circumstances of the instant case and also of the fact that there are prima facie materials to show that the third respondent has been causing very serious public nuisance in the locality and also polluting the Noyyal river, there shall be a direction to the first respondent to immediately initiate action under Section 133 of Cr.P.C and conduct an enquiry and if it is found that the third respondent is causing public nuisance, appropriate orders shall be passed in accordance with law.

8. This Criminal Original Petition is disposed of with a direction to the first respondent to immediately initiate proceedings under Section 133 of Cr.P.C and after giving an opportunity to all the parties concerned, shall take appropriate action by passing necessary orders and the proceedings shall be completed within a period of three months from the date of receipt of a copy of this Order.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1.The District Magistrate & District Collector,
Coimbatore District,
Coimbatore.

2.The District Environmental Engineer,
Tamilnadu Pollution Control Board,
Coimbatore South,
42-D, S.N.R.College road,
Peelamedu,
Coimbatore.

3.The Executive Officer,
Perur Town Panchayat,
Siruvani Mani Road,
Coimbatore

4.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.S.Sathia Chandran, Advocate sr 65603.

Crl.O.P.No.17551 of 2019

SVI (CO)
SP(06/09/2019)



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