

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.07.2019

Coram:

THE HON'BLE DR. JUSTICE G. JAYACHANDRAN

Writ Petition No.21042 of 2019
and
W.M.P.No.20226 of 2019

Mohamed Mydeen

.. Petitioner

/versus/

Executive Officer,
Anamalai Town Panchayat,
Anamalai,
Coimbatore District.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records pertaining to the impugned order dated 04.07.2019 passed by the respondent in Na.Ka.No.237/2015, quash the same.

For Petitioner :Mr.M.N.Rajakrishnan

For Respondents :Mr.N.Inbanathan,AGP

O R D E R

By consent, the main writ petition itself is taken up for final disposal at the admission stage itself.

2. Heard Mr.M.N.Rajakrishnan, learned counsel appearing for the petitioner and Mr.N.Inbanathan, learned Additional Government Pleader takes notice for the respondent. Perused the affidavit filed by the petitioner and the impugned order passed by the respondent, which is challenged in this writ petition.

3. The prayer in the writ petition is to issue a Writ of Certiorari calling for the records pertaining to the impugned order dated 04.07.2019 passed by the respondent in Na.Ka.No.237/2015, quash the same.

4. According to the petitioner, presently he is running a slaughter house in ward 15, Sahib Rawther Street, Anamalai, which is in an isolated place and also hygienic. He has paid a sum of Rs.35,866/- towards lease amount to the respondent for running the said shop. When he was about to start the said business in Anna Nagar area, the respondent directed him to shift the slaughter house from Anna Nagar area to Sahib Rawther Street, since it is more isolated than the place in Anna Nagar. In such circumstances, he shifted the slaughter house. Now, the respondent suddenly has passed an order dated 04.07.2019 to shift the shop, within 24 hours, without even giving him an opportunity of hearing and without sending show cause notice.

5. The perusal of the impugned notice dated 04.07.2019 this Court finds that the petitioner herein has participated in the auction conducted by the respondent to establish his slaughter house at Anna Nagar area. Whereas, the petitioner has carrying on his slaughter business in Ward No.15, Sahib Rawther Street, which is not the place authorised by the respondent to establish the slaughter house. Since the petitioner has violated the auction condition and has shifted the slaughter house to the unauthorised place to remove the shop, which cause nuisance and health hazards to the public, the impugned order has been passed by the Executive Officer, Anamalai Town Panchayat.

6. The learned counsel appearing for the petitioner has not placed any record to show that the petitioner was permitted to establish his slaughter house at Ward No.15, Sahib Rawther Street, Anamalai.

7. Infact, the impugned communication of the respondent clearly indicates that he was permitted to establish the slaughter house only at Anna Nagar area, which is also admitted by the petitioner herein in his affidavit. In such circumstances, this Court finds no ground to challenge the communication of the respondent.

8. The learned counsel appearing for the petitioner referring the judgments of the Hon'ble Supreme Court in Prakash Ratan Sinha v. State of Bihar and Ors. Dated 14.07.2009 and the Hon'ble Division Bench of this Court in K.krishnan & Others v. The District Collector, Thiruvannamalai District & Others reported in [CDJ 2014 MHC 6535], would submit that even if the petitioner has violated the tender condition, due opportunity should have been given to him before passing the impugned order.

9. The Tamil Nadu Panchayats Act, 1994, empowers the authority to remove nuisance after notice to the person, who commits health hazards. Here is the case, in violation of the tender condition, the petitioner herein wants to start slaughter

house in a place not authorised. This has been objected by the public including the people representative of that constituency. Under such circumstances, the respondent has passed this order.

10. Neither the petitioner nor any person have any right to establish a shop in an unauthorised place, more so the slaughter house. While the petitioner was permitted to put up a slaughter house at Anna Nagar area and lease rent was also collected from him for establishing the slaughter house in that area, the petitioner cannot choose his own place to establish his slaughter house and seek indulgence of this Court to protect this intention, which is not back by any law. Hence, this Writ Petition is liable to be dismissed.

11. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

Executive Officer,
Anamalai Town Panchayat,
Anamalai,
Coimbatore District.

+1 cc to Mr.D.R.Arunkumar, Advocate, S.R.No.60900

W.P.No.21042 of 2019
and

सत्यमेव जयते W.M.P.No.20226 of 2019

PP (CO)
SSM(20/08/2019)

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