



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 05.11.2019	Pronounced on: 11.11.2019
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Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition No.27561 of 2019
& W.M.P.No.27048 of 2019

A.Ibrahim,
S/o.Abdul Rehman,
No.6, Senkeniyammankovil Street,
Nandhivaram, Guduvancheri,
Kancheepuram District. ... Petitioner

/versus/

The Executive Officer,
Nandhivaram Guduvancheri Town Panchayat,
Chengalpattu Taluk,
Kanchipuram District. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorari Mandamus, to call for the records on the file of the respondent in his proceedings Notice No.3/2018/A1, dated 26.03.2018 under Sections 33, 34(A), 35(A)(B) and 134(1) of the Tamil Nadu Public Health Act, 1939 and pass orders.

For Petitioner : Mr.M.Vijaya Kumar

For Respondent : Mrs.P.Rajalakshmi
Additional Government Pleader

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the respondent.

2. The Petitioner herein is aggrieved by the order issued by the respondent, to close his beef stall running at Nandhivaram Colony Road, Guduvancheri Town Panchayat. The petitioner claims that for the past 20 years, he is running beef stall at Senkeniyamman kovil, Nandhivaram Colony, Guduvancheri.

He has obtained valid licence/registration issued by Food Safety and Standards Authority of India (FSSAI), which is valid upto 11.02.2020. While so, based on some anonymous complaint, the 1st respondent without causing any due enquiry, arbitrarily issued notice on 26.03.2018, to close down the beef stall, within the period of two days.

3. On receipt of the notice, the petitioner has closed down the shop and given representation to the 1st respondent to reconsider the order in the light of the fact that, he has obtained valid license from Food Safety and Standards Authority of India and conducting business without any hindrance to public. Hence, the order of closure without proper enquiry is bad and therefore, he must be permitted to open the beef stall. Since his representation and reminders were not considered by the 1st respondent, the present Writ Petition is filed on the ground that, when the petitioner has valid license to run meat stall, the order of the 1st respondent to close the shop is arbitrary and contrary to law.

4. The 1st respondent has filed counter, wherein, it is stated that the notice of closure was issued by the 1st respondent/Executive Officer, under Sections 33, 34(A), 35(A)(B) and 134(1) of the Tamil Nadu Public Health Act, 1939, in view of nuisance caused by the petitioner to the public, affecting public health. The Village peoples made representation to the respondent to take necessary steps to close down the beef stall, which was causing health hazard. Hence, the Village Administrative Officer, visited the shop and made enquiry. As per Village Revenue record, the place at which the petitioner running his beef stall is mentioned as vacant place. However, without permission from the Executive Authority or the Commissioner, the petitioner has installed beef stall in that place and also constructing permanent shop unauthorisedly. Hence, after enquiry, the Revenue Inspector report was submitted to the 1st respondent stating that, the beef stall is running for the past 1½ years, near one Angavadi Centre and Adi Dravidar Welfare School. The presence of the petitioner shop cause hindrance to general public. It causes law and order problem. The petitioner is not maintaining the shop with proper Sullage or Sewage for disposal of the blood wastage which flows in the streets and therefore, the order of closure was issued.

5. Further, it is stated in the counter that, as per Sections 255 and 257 of Tamil Nadu District Municipalities Act, 1920, the petitioner ought to have obtained license for slaughter house and license to sell meat from the respondent. Having failed to obtain appropriate license from the local body,

the closure notice was issued. Therefore, there is no illegality in the action taken by the 1st respondent.

6. The impugned notice is issued under Sections 33, 34 (A), 35(A)(B) and 134(1) of the Tamil Nadu Public Heath Act, 1939, particularly, Sections 33 and 34 of the said Act prohibits Occupation of building without drains and letting out Sullage and Sewage into the streets. When any occupier indulging letting out Sullage and Sewage into the streets which may cause injury to the public, the authority is empowered to take action against the offenders.

7. The contention of the petitioner is that, even the power under Tamil Nadu Public Heath Act, 1939, opportunity should have been given to the petitioner before ordering closure. No doubt the petitioner was given opportunity before issuing the closure order. But we also find that while the petitioner herein has obtained permission from Food Safety and Standards Authority of India (FSSAI) for carrying on business in meat and meat products and the said license is valid upto 11.02.2020, he has not obtained license from the local body as per Sections 255 and 257 of Tamil Nadu District Municipalities Act, 1920 which reads as below:-

255. Licence for slaughter-houses :- (1)
The owner of any place within municipal limits or at a distance within three miles of such limits which is used as a slaughter-house for the slaughtering of animals or for the skinning or cutting up of any carcasses, shall apply to the Executive Authority for a licence not less than thirty and not more than ninety days before the opening of such place as a slaughter-house or the commencement of the year for which the licence is sought to be renewed, as the case may be:

Provided that this sub-section shall not take effect in any area outside the municipal limits except with the previous sanction of the State Government.

(2) The Executive Authority may, by an order and subject to such restrictions and regulations as to supervision and inspection and as he thinks fit, grant or refuse to grant such licence.

257. Slaughter of animals for sale as food:- No person shall slaughter within the Municipality, except in a public or licensed slaughter-house, any cattle, horse, sheep, goat or pig for sale as food or skin or cut up any carcass without or otherwise than in conformity with a licence from the Executive Authority or dry or permit to be dried any skin in such a manner as to cause a nuisance :

Provided that the Executive Authority may authorise any person to slaughter, without licence and without the payment of any fee, any animal for the purpose of a religious ceremony.

8. The petitioner herein, till date has not obtained license from the Local Authority. Besides any establishment of slaughter house should also comply the requirements mentioned under Sections 33, 34 & 35 of the Tamil Nadu Public Health Act, 1939. Possession of licence issued Food Safety and Standards Authority of India (FSSAI) alone is not sufficient to carry on slaughter house or beef stall. Hence, this Court finds no illegality in the impugned order.

9. If the petitioner herein make proper application to the authorities and obtained license under Sections 255 & 257 of the Tamil Nadu District Municipalities Act, 1920, he shall be permitted to run beef stall without causing any injuries or hazardous activities. If the petitioner makes any such application for granting license, the respondent shall consider the same and pass orders, within a period of one month, from the date of receipt of the application.

10. With the above observation, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

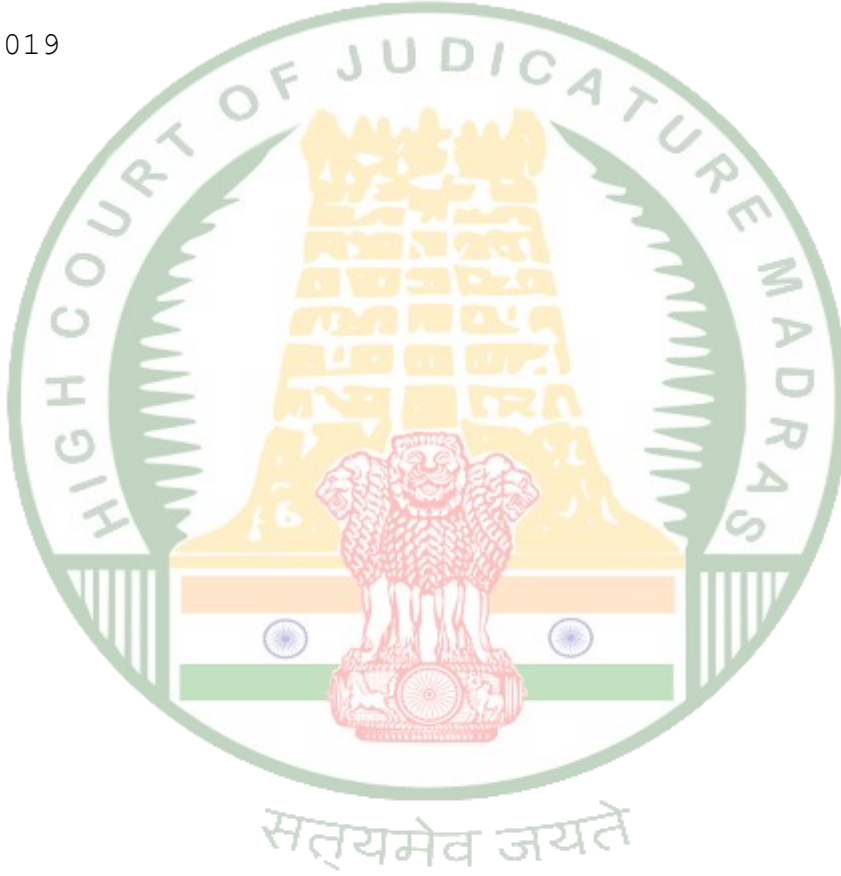
To,

The Executive Officer,
Nandhivaram Guduvancheri Town Panchayat,
Chengalpattu Taluk,
Kanchipuram District.

+lcc to Mr.M.Vijaya Kumar, Advocate sr.93417

Writ Petition No.27561 of 2019

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