

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2019

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P. 33093 of 2018
and
W.M.P. 38375 of 2018

Fathima,
Proprietor,
Magalir Enterprises,
Plot No.7, Shanthi Nagar,
Pattu Mangadu,
Chennai-600 122. Petitioner

Vs

1. The District Collector,
Kancheepuram District.
2. The Executive Officer,
Mangadu Town Panchayat,
Chennai-600 122. Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, call for the records of the 2nd Respondent in Na.Ka. No.398/2015 dated : 17.10.2018 issued under Section 41(8) of Tamil Nadu Public Health Act, 1939 and quash the same as illegal, arbitrary and nonest in law and consequently forbear the respondents 1 and 2 from initiating any coercive action against the petitioner company "Magalir Enterprises" at Plot No.7, Santhi Nagar, Pattu Mangadu, Chennai-600 122.

For Petitioner : Mr.G.Mohammed Aseef

For Respondents : Mr.R.Govindasamy,
Special Government Pleader
for R1
No appearance for R2

O R D E R

This Writ Petition has been filed challenging the notice issued under Sec.41 of the Public Health Act on the ground that the petitioner is running the business without any trade license and also causing air and noise pollution in the residential area.

2. Earlier, notice was ordered to the respondents. Today, when the matter was taken up for hearing, Mr.R.Govindasamy, learned Special Government Pleader appearing for the 1st respondent submitted that the petitioner running the business without any trade license, and also causing pollution in the residential area, the 2nd respondent has also received lot of complaints from the general public. In the said circumstances, the present impugned notice has been issued to the petitioner.

3. Mr.G.Mohammed Aseef, learned counsel appearing for the petitioner submitted that they have already filed an application before the 2nd respondent on 19.12.2018 for getting the trade license. So far, no order has been passed in the petitioner's application.

4. I have considered the rival submissions and perused the relevant records carefully.

5. Admittedly, the petitioner is running the business even without any trade license from the 2nd respondent Town Panchayat, and the petitioner has no right to do any business without obtaining any trade license. In the said circumstances, the petitioner cannot question the impugned notice issued by the 2nd respondent. However, since the petitioner's application is pending with the 2nd respondent, the 2nd respondent is directed to consider the petitioner's application and pass suitable orders on merits and in accordance with law within a period of two weeks from the date of receipt of the copy of this order.

6. With the above direction, the present Writ Petition stands disposed of. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

rpp

To

1. The District Collector, Kancheepuram District.

2. The Executive Officer, Mangadu Town Panchayat, Chennai-122.

+1cc to Mr.G.Mohammed Aseef, Advocate SR.No.6410

+1cc to Government Pleader, High Court, Madras SR.No.8164

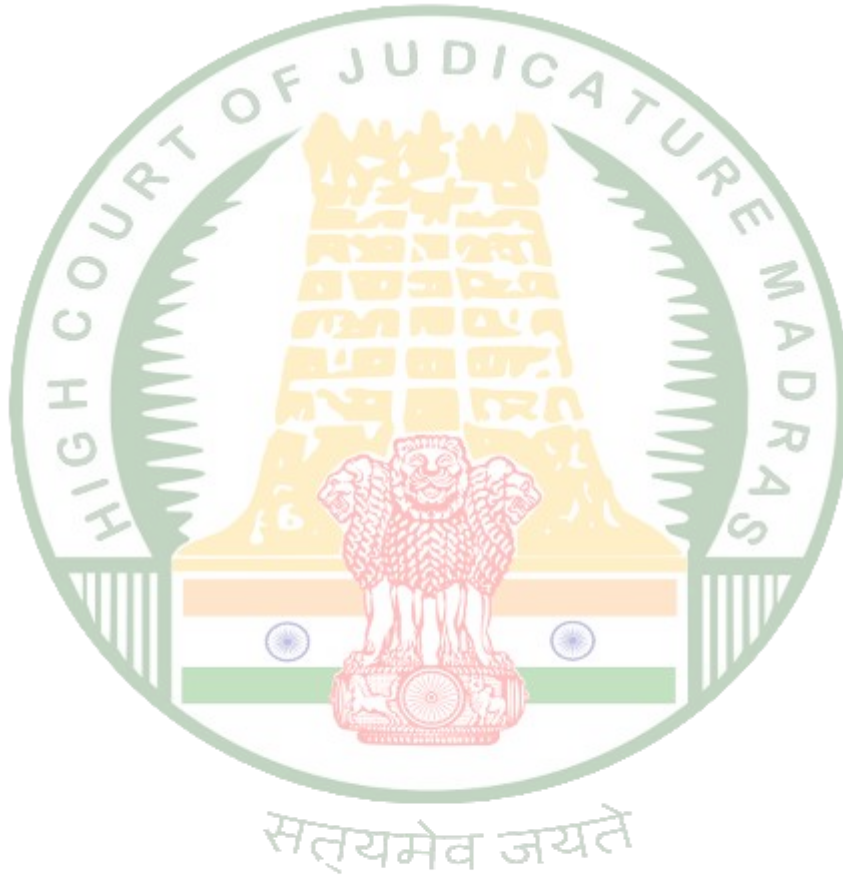
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CA (CO)

GMV (06/03/2019)



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