

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.33872 of 2018
and
WMP No.39339 and 39340 of 2018

P. Manickam Petitioner
Vs.

1. The District Collector,
O/o. Collectorate,
Namakkal District,
Namakkal.

2. The Special Officer /
Panchayat Executive Officer,
R. Puthupalayam Panchayat,
Rasipuram Taluk,
Namakkal District. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for a writ of certiorarified mandamus to call for the records in pursuance of order dated 05.12.2018, from the 2nd respondent and quash the same as illegal and direct the 2nd respondent to consider the petitioner's application dated 24.11.2018 for issuance of licence to run a pig farm in Survey No.63/1A, R. Pudupalayam Village, Rasipuram Taluk, Namakkal District.

For Petitioner : Mr.R.Baskar

For Respondents : Mr. V. Shanmugasundar,
Special Government Pleader

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ORDER

This writ petition has been filed to quash the order issued by the 2nd respondent dated 05.12.2018, and consequential direction to consider the representation of the petitioner dated 24.11.2018 for issuance of licence to run a pig farm in Survey No.63/1A, R. Pudupalayam Village, Rasipuram Taluk, Namakkal District.

2. According to the petitioner, he is a small Farmer, however due to water scarcity, he proposed to put up a Pig farm for his livelihood. Hence, he applied for the licence before the authorities concerned, but the same was not considered. Whiles, he had obtained approval for construction of shed, 3 phase electricity connection and now he is maintaining around 100 pigs. In the meantime, based on the complaint given by one of the villagers to the Block Development Officer, Vennandhur, the Writ Petition in W.P. No.22255 of 2017 was filed seeking for a direction with respect of the aforesaid illegal pig farm. Subsequently, this Court, vide order, dated 19.07.2018 issued directions to the third respondent therein to consider the representation of the petitioner therein, dated 16.05.2017. In compliance to the said directions, the 2nd respondent passed an arbitrary order on 07.11.2018 stating that the pig farm being running without obtaining proper approval. It is the grievance of the petitioner that though he has submitted application for getting licence, without considering the same, the 2nd respondent passed such an order. Hence, the petitioner has preferred a Writ Petition in W.P. No.32168 of 2018 seeking to quash the aforesaid order passed by the 2nd respondent, As such, the notice was ordered in the above writ petition. In the meantime, the 2nd respondent passed an order dated 05.12.2018, rejecting the application of the petitioner dated 24.11.2018, on account of objections raised by the villagers, due to the cause of health hazards to the locality. Hence, the petitioner is before this Court seeking for an appropriate relief.

3. The learned counsel for the petitioner contended that the petitioner has submitted application for obtaining licence to run the pig farm, but without providing due opportunity the second respondent has passed the rejection order, dated 05.12.2018. Reiterating the averments stated in the affidavit, he further submitted that the pigs are maintained in a clean manner and they have been vaccinated. Hence, he prays before this Court to quash the said impugned order and for consequential direction.

4. Per contra, the learned Special Government Pleader appearing for the respondents submitted that prior to issuance of the said rejection order, inspection was conducted by the authorities concerned. Based on the objections raised by the villagers made at the time of inspection with respect to the cause of health hazards to the locality, the said application was rejected. However, on instructions, he fairly accepted that the inspection report has not been communicated to the petitioner. Therefore, in the aforesaid short ground, he has no hesitation to quash the said impugned order and also submitted that the petitioner may be directed to obtain no objection certificate from the authorities concerned and submit

a fresh representation to the second respondent.

5. Considering the submissions so made by the learned counsel for either side, this Court is inclined to quash the impugned order. Accordingly, the order passed by the 2nd respondent on 05.12.2018 is hereby quashed and remanded back to the file of the 2nd respondent. However, considering the health hazards to the locality, the petitioner is directed to obtain no objection certificate from the authorities concerned and submit the same along with fresh application to the 2nd respondent within a period of four weeks from the date of receipt of a copy of this order. On receipt of such representation, the 2nd respondent shall consider the same, along with necessary certificates, on merits and in accordance with law after providing an opportunity of personal hearing as expeditiously as possible, preferably within a period of two weeks, thereafter.

6. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

vsi2

To

1. The District Collector,
O/o. Collectorate,
Namakkal District,
Namakkal.

2. The Special Officer / सत्यमेव जयते
Panchayat Executive Officer,
R. Puthupalayam Panchayat,
Rasipuram Taluk,
Namakkal District.

+1cc to Mr.R.Baskar, Advocate SR.No.21837

+1cc to Government Pleader SR.No.22617

W.P.No.33872 of 2018

PA (CO)
GMY (24/05/2019)