



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Friday, the Twenty Sixth day of July Two Thousand Nineteen

WEB COPY

PRESENT

The Hon'ble Mr.Justice M.SATHYANARAYANAN
and
The Hon'ble Mr.Justice B.PUGALENDHI

WMP(MD) No.10392 of 2019
and
WMP(MD)No.4827 of 2019
IN
WP(MD) No.6042 of 2019

THE COMMISSIONER
MADURAI CORPORATION OFFICE,
MADURAI

...Petitioner/ 2nd Respondent/2nd Respondent

Vs

1 K.RAVIKUMAR ...1st Respondent/Writ Petitioner/Petitioner

2 THE DISTRICT COLLECTOR
COLLECTORATE OFFICE, MADURAI

3 THE CHAIRMAN
TAMILNADU POLLUTION CONTROL BOARD,
76, MOUNT SALAI, GUINDY, CHENNAI

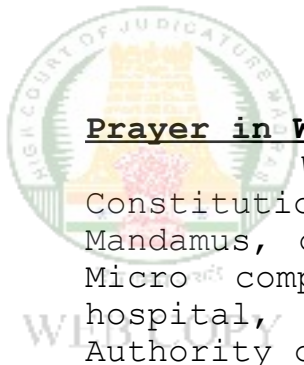
4 V.PREM KUMAR ... Respondents/Respondents/Respondents

Prayer in WMP(MD)No. 10392/ 2019 :

To vacate the interim order granted in WMP.(MD).
No.4827/2019 in WP(MD).NO.6042/2019 dated 02.04.2019 and
consequently dismiss the Writ petition and thus render justice.

Prayer in WMP(MD)No. 4827/ 2019 :

To pass an order of Stay to forbear the 2nd respondent from
construction of Micro Compost Plant adjoining to family planning
association hospital, Housing board residential area and Sports
Development Authority of Tamilnadu's Hockey Stadium in Ellish Nagar.



Prayer in WP(MD)No. 6042 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd respondent to STOP the construction of Micro compost plant adjoining to family planning association hospital, Housing board residential area and Sports Development Authority of Tamilnadu Hockey Stadium in Ellish Nagar and direct the 2nd respondent to obtain environmental clearance from 3rd respondent and to direct the 1st respondent to provide public notice prior to construction of Micro Compost plant and to establish buffer zone as per Solid Waste Management Rule 2016 and to relocate the Micro Compost Plant away from Family Planning Association Hospital and residential area.

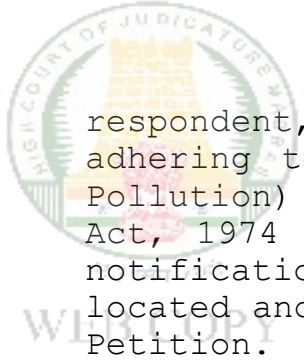
ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.K.Chellapandian, AAG, Assisted by M/s.R.Murali, Advocate, for the petitioner and of Mr.P.Karthick for R1 and Mr.AK.Baskarapandian, Special Government Pleader for R2, and Mr.V.Vasanthakumar for R3, and Mr.C.Ezhilarasu for R4, the court made the following order:-

(Order of this Court was made by **M.SATHYANARAYANAN, J**)

W.P.(MD) No.10392 of 2019 is filed by the second respondent for vacating the interim order dated 29.03.2019, made in W.P.(MD) No.6042 of 2019.

2.For the sake of convenience, array of parties referred to in the writ petition is adopted for disposal of these petitions.

3.The writ petitioner came forward to file this writ petition styled as a "Public Interest Litigation" stating among other things that he is a resident of Ellis Nagar, Madurai Town, which lies in the heart of the Madurai Town and there are about 1000 families are residing in the said area. It is further stated that the second respondent has mooted out establishing of "Micro Compost Plant" in the said locality and the proposed site located close to Family Planning Association Hospital, Sports Development Authority of Tamilnadu's Hokey Ground, residential area, Temple and clinics and that apart within 500 metre of the proposed site World Renowned Meenakshi Amman Temple is located and near to that Periyar Bus Stand, Madurai Railway Junction and Mosques etc., are also located. It is further averred by the petitioner that the proposed site is adjacent to Housing Board Residential Building H-145 and in the said building there is a sump through which water is being distributed to all the residents of Vaigai Housing Board Residential Association and there is a genuine apprehension in the minds of the residents of Ellis Nagar that the location and operation of Micro Compost Plant would definitely cause ecological disturbance, pollution, nuisance, hardships apart from health hazards. The petitioner in this regard submitted a representation dated 04.03.2019 to the second



respondent, however, no response was forthcoming and without adhering to the provisions of the Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 and Solid Waste Management Rules, 2015 and the relevant notifications and in a hurried manner the said Composed Yard is located and therefore, the petitioner came forward to file this Writ Petition.

4. This Writ Petition was entertained and interim stay was granted on 02.04.2019 in W.M.P.(MD) No.4827 of 2019 and to vacate the interim stay, the second respondent has filed W.M.P.(MD) No.10392 of 2019 and in the affidavit filed in the said petition, which is also the counter affidavit to the main writ petition, the second respondent would aver among other things that apart from the proposed Micro Composting Centre, which is objected by the residents of Ellis Nagar, 41 Onsite Composting Centres is to be located in Madurai City and at Central Market and Vegetable market, onsite composting centres are functioning for the past few months effectively without any complaint from any one and insofar as the Composed Yard, which is the subject matter of the present writ petition is concerned, the Corporation of Madurai vide Resolution No.455 dated 14.09.2018, had approved the construction with an estimate of Rs.80,00,000/- and after following "due tender process" work order has been issued for the construction of Micro Composting Centre (In short MCC) and for that purpose Madurai City Municipal Corporation is also in the process of purchasing the battery operated vehicles for door to door collection to implement the project effectively and the employees of the corporation are already given training by the Government at Coimbatore to implement the Solid Waste Management, 2016 effectively. The counter affidavit also enumerates the steps taken for the purpose of operating MCC. It is further stated in the counter affidavit that as per the design approved by the authority MCC will have 28 pits with proper construction, covered by galvanize sheet structure with sufficient space for operating shredder and resting places for the employees and the Pollution Control Board will monitor the functioning of MCC and the environmental engineers attached with the Pollution Control Board already made inspection and found that the present place is suitable one for MCC. The second respondent has drawn the attention of this Court to the legal position that Solid Waste Management Rules, 2016 also undertakes that the Pollution Control Laws and Solid Waste Management Rules, 2016 should be scrupulously adhered to and complied with. The second respondent while dealing with the factual aspect would contend that the Family Planning Association Hospital is not admitting inpatients and its primary object is to give counseling to patients. The Hockey Stadium is also 500 metres away from the present location and assured that functioning of MCC will not affect environment and in no way the public are going to be affected. It is further stated that the Meenatchi temple is 2 kms. away from the present location and therefore, prays for vacating the interim order.



5.The learned counsel appearing for the petitioner has drawn the attention of this Court to Rule 19 of the Solid Waste Management Rules, 2016 and would submit that in the absence of prior notice, establishment of the MCC in the said place cannot be done at all and further pointed out that admittedly, Ellis Nagar is located in the heart of the Madurai City and it is thickly populated residential area and from the past experience most of the MCC operated by various local bodies are not maintained properly or not at all functioning and further pointed out that it is located nearer to a pumping station from where water is supplied to the residents and the Family Planning Association, which gives counseling to HIV Patients is very very close to the proposed site and on account of the serious hazards that may be posed, the suffering of the patients who are already suffering due to H.I.V. is going to be increased and they will be subjected to innumerable nuisance and health hazards and he would also plead that though in principle the petitioner is not against the arrangement of Micro Composting Yard, took a stand that it should be located far away from the residential colonies and therefore, prays for making the interim stay absolute.

6.Per contra, Mr.K.Chellapandian, learned Additional Advocate General, assisted by Mr.R.Murali, learned Standing Counsel for the second respondent and Mr.A.K.Baskarapandian, learned Special Government Pleader appearing for the first respondent taken us through the contents of the counter affidavit filed by the second respondent in support of the vacate stay petition and would contend that the total area of the pumping station is 5 acres and the area required is only one acre and they further drawn the attention of this Court to Authorization No.4903 of 2018 vide proceedings of the Member Secretary, Tamil Nadu Pollution Control Board and would submit that the Pollution Control Board has accorded permission for location of 41 MCC centres and the present is listed as No.5 and as many as 21 conditions have been imposed and the said conditions will be strictly adhered to and that apart there will not be any infraction or violation of Solid Waste Management Rules, 2016.

7.It is further stated by the learned Additional Advocate General that nowadays it has become a fashion for the residents to oppose MCC, which is mainly caused upon the local bodies and but for the scientific segregation and disposal of the Solid Waste Management, there will be more serious health hazards to the people. He would further add that while putting up MCC the residents of the locality will be imparted with the importance of maintaining civil amenities properly and develop civil sense also.

8.It is lastly pointed out by the learned Additional Advocate General that the apprehension expressed by the writ petitioner is merely based on surmises and conjectures and without any basis and this Court can also monitor the functioning of the MCC and hence prays for vacating the interim order.



9. This Court considered the rival submissions and also perused the materials placed before it.

10. It is relevant to cite the decision of the Division Bench of this Court in **(2019) 2 MLJ 114 [M.G.M.N.N.M. Sangam v. Commissioner, Municipal Authority]**. The primary question in the said decision is whether park site in the area reserved for putting amenities can be converted as solid waste management. The Division Bench while dealing with the said issue has taken note of the earlier **order dated 22.01.2018 in the case of M.S. Rangarajan v. Pammal Municipality, Pammal, Chennai** and approved the said decision. In paragraph 11 of the said decision it is observed as follows:

"11. As noticed in the above said judgments, it is the duty of the Municipal authorities to ensure that there is no nuisance created to the residents. The authorities shall ensure that the Municipal Solid Waste Management Plant/Transfer Station is to be cleaned twice a day and is to be done very regularly to avoid mosquitoes breeding in the portion of park. It is the duty of the authorities to ensure the park to maintain properly. The Municipality is directed to ensure that the remaining area of the park is developed into a well maintained park. It is also directed that footpath and green belts and play equipments should be installed in the park. If the park is not maintained, it will be taken as contempt of the orders of this Court."

11. This Court takes judicial notice of the fact that people generally lacks civil sense and the disposal of garbage have become hazardous and by this process in a scientific manner they segregate the wastes and by treating the same they are converting it as an useful product in the form of manure. Solid Waste Management facility viz., Micro Composting Yard is a must. This Court also takes note of the apprehension expressed by the petitioner and the health hazards in maintaining solid waste management facility which includes Micro Composting Centres. As pointed out by the learned Additional Advocate General, Tamil Nadu Control Board while granting permission vide proceedings No.T1/TNPCB/SWM/F.00920/MDU/2019 dated 13.04.2019 had imposed very many conditions and that apart the second respondent has also got statutory obligation to comply with the Solid Waste Management Rules, 2016 in letter and spirit.

12. Though the learned counsel appearing for the writ petitioner would contend that there are alternative places available, he is unable to point out any specific place.

13. Now, it has become a fashion for some people pleading not to locate Micro Composed yards near to their residents, but they are not in the habit of maintaining the locality in a neat and hygienic condition and continued to dispose of the garbage by throwing it on public place and therefore, establishment of solid waste management facility is the order of the day and it is also mandated by relevant statutory provisions and in that process the people will be educated



through civil sense and responsibility.

14. In the light of the above, this Court is of the considered view that balance of convenience lies in favour of the second respondent Corporation and the location of the MCC is also in public interest and it is also a statutory mandate.

15. In the result W.M.P.(MD) No.10392 of 2019 is allowed. In the consequence, the interim order dated 02.04.2019 made in W.M.P.(MD) No.4827 of 2019 is vacated and W.M.P.(MD) No.4827 of 2019 is dismissed. However, this Court taking into consideration the apprehension expressed by the petitioner, directs the second respondent Municipal Corporation to put MCC, (Solid Waste Management Facility) strictly in accordance with law and while operating the said plant, norms of Pollution Control Board as well as Solid Waste Management Rules, 2016 shall be strictly adhered to.

16. The second respondent after commencing the operation of MCC, is directed to file a comprehensive status report with supporting documents before this Court in this writ petition.

Call on 16.09.2019.

Sd/-
26/07/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE DISTRICT COLLECTOR,
COLLECTORATE OFFICE, MADURAI

2 THE CHAIRMAN,
TAMILNADU POLLUTION CONTROL BOARD,
76, MOUNT SALAI, GUINDY, CHENNAI.

+1 CC to M/s.R.MURALI, Advocate (SR-12433[I] dated 29/07/2019)

ORDER
IN
WMP(MD) No.10392 of 2019
and
WMP(MD) No.4827 of 2019
IN
WP(MD) No.6042 of 2019
Date :26/07/2019