



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P (MD)No.23455 of 2019
and
W.M.P. (MD)No.20102 of 2019

M.Christu Raj

.. Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
At Nagercoil.

2.The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
318/46A, Water tank Road,
Nagercoil-1,
Kanyakumari District.

3.The Executive Officer,
Nalloor Town Panchayat,
Nalloor,
Kanyakumari District.

4.Stephen

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the respondents 1 to 3 to stop the illegal manufacturing of sweets without obtaining any permission or license from the concern authorities and running the same by encroaching the promboke land in Survey No.224 of Kollanchi Village, Vilavancode Taluk, Kanyakumari District and to stop the illegal running of sweet manufacturing unit by considering the representation of the petitioner dated 05.07.2019 and 29.07.2019.



For Petitioner : Mr.S.C.Herold Singh
For R1 : Mr.M.Murugan
Government Advocate
For R2 : Mr.V.Vasanthakumar
For R3 : Mr.Aayiram K.Selvakumar
Additional Government Pleader

ORDER

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.S.C.Herold Singh, learned counsel appearing for the petitioner, Mr.M.Murugan, learned Government Advocate, appearing for the first respondent, Mr.V.Vasanthakumar, learned counsel for the second respondent and Mr.Aayiram K.Selvakumar, learned Additional Government Pleader for the third respondent.

2. The petitioner is before this Court by way of Public Interest Litigation alleging that the fourth respondent is operating a sweet manufacturing unit, in which cashew shell is being used as fuel.

3. It is not in dispute that the usage of cashew shell as fuel has been prohibited as it is largely polluting. The petitioner would state that the sweet manufacturing unit commences to operate only after 06.00 p.m., and fourth respondent is playing music by using cone speakers in a high volume thereby disturbing tranquillity of the entire area.

4. The learned Additional Government Pleader appearing for the third respondent on instructions from the Officer, who is present in Court, submitted that as on date the fourth respondent's sweet manufacturing unit is not functioning. It is submitted that the statement of the Officer may be placed on record.

5. So far as the pollution control board, which has been impleaded as second respondent, it is submitted that the process, which has been stated to be done by the fourth respondent, would not come within the purview of the pollution control board. Admittedly, the small sweet manufacturing unit may not come within the control of the board, but nevertheless if the manufacturing unit is running purely on commercial basis, that too by using the material, which are banned to be used, it falls within the jurisdiction of the pollution control board to inspect the unit and find as to whether the unit causes any pollution.



6. Considering the submission of the learned counsel for the third respondent Panchayat, we direct that the fourth respondent's sweet manufacturing Unit shall not be permitted to function as they have already closed down and in any event, the District Environmental Engineer is directed to inspect the area and get first hand information and in case any other unit of the fourth respondent is using cashew shells, ultimately appropriate action be taken to stop such process.

7. With the above observation, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The District Collector,
Kanyakumari District,
At Nagercoil.

2.The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
318/46A, Water tank Road,
Nagercoil-1, Kanyakumari District.

3.The Executive Officer,
Nalloor Town Panchayat,
Nalloor,
Kanyakumari District.

+1 CC to Mr.AAYIRAM.K.SELVAKUMAR, Advocate (SR-96800[F] dated 07/11/2019)

+1 CC to SPL GP (SR-96971[F] dated 08/11/2019)

+1 CC to Mr.S.C.HEROLD SINGH, Advocate(SR-97075[F]dated 08/11/2019)

+1 CC to Mr.V.VASANTHAKUMAR, Advocate (SR-97128[F]dated 08/11/2019)

+1 CC to Mr.V.VASANTHAKUMAR, Advocate (SR-9734[F]dated 11/11/2019)

W.P (MD) No.23455 of 2019

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VB(22.11.2019) 3P 9C