

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.02.2020

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 1466 of 2019

M.Muthusamy

.. Petitioner

..Vs..

1.The Director of Medical and Rural Services,
DMS Compound,
Teynampet,
Chennai - 600 018.

2. The Joint Director of Health Services,
Government Head Quarters Hospital,
Erode,
Erode District.

3. The Chief Medical Officer,
Government Head Quarters Hospital,
Erode,
Erode District.

4. The General Manager,
Erode District Co-operative Milk
Producers Union Ltd.,
Vasavi College Post,
Erode - 638 316.

.. Respondents

(R4-Impleaded as per order dated 08.07.2019 in W.M.P.No. 17084 of 2019)

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order made in Na.Ka.No. 7093/K1/2018 dated 27.11.2018 passed by the 2nd Respondent, quash the same and consequently direct the 1st respondent to consider the petitioner's application dated 25.06.2018 and representations dated 11.09.2018, 26.09.2018 and 12.11.2018 submitted for installing Aavin Parlour within the campus of the respondents 2 & 3.

For Petitioner : Mr.M.Manoharan
For Respondents: Mr.V.Shanmugasundar,
Special Government Pleader.

For R4 : Mr.L.P.Shanmugasundaram

O R D E R

The petitioner has filed the present writ petition in the nature of writ of Certiorarified Mandamus to call for the records relating to the impugned order made in Na.K.No. 7093/K1/2018, dated 27.11.2018 passed by the 2nd respondent, namely, the Joint Director of Health Services, Government Head Quarters Hospital, Erode, quash the same and consequently direct the 1st respondent, namely, the Director of Medical and Rural Services, DMS Compound, Teynampet, Chennai to consider the petitioner's application dated 25.06.2018 and representations dated 11.09.2018, 26.09.2018 and 12.11.2018 submitted for installing Aavin Parlour within the campus of the respondents 2 & 3, pending the writ petition, the General Manager, Erode District Cooperative Milk, Producers Union Ltd., Vasavi College Post, Erode had been impleaded as a 4th respondent.

2. In the affidavit filed in support of the writ petition, it had been stated by the writ petitioner that in order to maintain his family, he had submitted an application dated 25.06.2018 seeking direction to install an Aavin Parlour within the compound of the Government General Hospital, Head Quarters at Erode. It is claimed by the petitioner that the fourth respondent had agreed to consider the request of the petitioner if permission is granted by the respondents 1 to 3. The petitioner had submitted an application in compliance with G.O.Ms.No. 59 dated 20.03.2003 issued by the Health and Family Welfare Department and Na.Ka.No. 14374/Thi Va.1/5/2006, dated 25.03.2006, issued by the 1st respondent.

3. It is claimed by the petitioner that along with the application dated 25.06.2018, he had enclosed a letter dated 10.05.2018 issued by Aavin, Affidavit of Undertaking, Aadhaar Identify Card and a rough plan identifying the place. He had given further petitions on 11.09.2018, 26.09.2018 and 12.11.2018, requesting the respondents to grant permission to install Aavin Parlour. Thereafter, he had given a petition to the District Collector on 12.11.2018. The impugned order came to be passed by the second respondent on 27.02.2018, refusing to allot any place to install Aavin parlour within the compound wall of the Government Head Quarters Hospital, Erode. Under these circumstances, the petitioner had filed the present writ petition.

4. A counter affidavit has been filed on behalf of the third respondent, namely, the Chief Medical Officer, Government Head Quarters Hospital, Erode, Erode District, wherein, it has been stated that the request of the petitioner to install Aavin Parlour measuring 8' x 6' feet, would not be considered due to construction of flyover bridge in front of the Government Head Quarters Hospital, Erode.

5. Heard Mr.N.Manoharan, learned counsel for the petitioner, Ms.Rajalakshmi, learned counsel appearing for the respondents 1 to 3 and Mr.L.P.Shanmugasundaram, learned counsel appearing for the fourth respondent.

6. It is the stand of the petitioner that similar request was considered by this Court in similar writ petitions. After considering the said orders, it is seen that, in those petitions, Mandamus has been issued for continuing the existing Aavin Booth within the premises. However, in the present case, the petitioner seeks to install a new Aavin Booth within the premises of the third respondent. The third respondent had categorically refused to grant such permissions.

7. The petitioner filed an affidavit seeking permission to install one such Aavin Parlour in any one of the following places, namely, i) District Collectorate, Erode ii) IRT Government Medical College Cum Hospital, Perundurai, Erode District and (iii) Central Bus stand at Erode. It is stated by the respondents that the competent authority to examine whether Aavin parlour can be installed within the premises of the District Collectorate, Erode is the District Collector, Erode. Similarly the competent Authority to examine whether Aavin parlour can be installed within the premises of IRT Government Medical College cum Hospital, Perundurai, Erode District is the Director of Medical Education, Chennai. The competent authority to examine whether Aavin parlour can be installed in Central Bus Stand at Erode is the Commissioner, Erode Corporation.

8. In view of the above, the petitioner is requested to submit applications to all the three officials. The said application should contain an undertaking that he would maintain Aavin Parlour properly. It is also informed by the learned counsel for the petitioner that if permission is granted by any one of the three officials, then license can be obtained from the 4th respondent. The petitioner may, therefore, submit the applications to the said three officials namely (i) District Collector, Erode, (ii) Directorate of Medical Education Chennai and (iii) Commissioner, Erode Corporation and three officials shall issue notice to the petitioner and also to the concerned authorities and grant an opportunity of personal hearing.

Notice may also be issued to the 4th respondent namely the General Manager, Erode District Cooperative Milk, Producers Union Ltd., Vasavi College Post, Erode to ensure whether the 4th respondent would issue license to the petitioner. After issuing notice to all the necessary respondents herein and if there is place available in any of the said three places, then final order may be passed, subject to permissions and other requirements, with respect to the applications given by the petitioner on or before 30.04.2020.

9. With these observations, the writ petition stands disposed of. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Director of Medical and Rural Services,
DMS Compound,
Teynampet,
Chennai - 600 018.

2. The Joint Director of Health Services,
Government Head Quarters Hospital,
Erode,
Erode District.

3. The Chief Medical Officer,
Government Head Quarters Hospital,
Erode,
Erode District.

4. The General Manager,
Erode District Co-operative Milk
Producers Union Ltd.,
Vasavi College Post,
Erode - 638 316.

+1 CC to Mr.N.Manoharan, Advocate sr 15906.

+1 CC to Mr.L.P.Shanmugasundaram, Advocate sr 16186.

+1 CC to The Special Government Pleader(Co OP) sr 16143.

+1 CC to Govt. Pleader sr 16717.

W.P.No. 1466 of 2019

AD(CO)

SP(19/05/2020)