

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.08.2020

Pronounced on : 18.08.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.9381 of 2020
and W.M.P.No.11464 of 2020

Care 4 Life,
Rep. by its Managing Director,
Samir Kamra,
R.S.No.54/8, 24th Cross,
6th Main Road, MSI Area,
PIPDIC, Mettupalayam Industrial
Estate, Puducherry - 605 009.Petitioner

Vs.

- 1.The Secretary to Government
Department of Industries & Commerce,
Government of Puducherry,
Puducherry - 605 001.
- 2.The Chief Inspector of Factories and Boilers,
Government of Puducherry,
Gandhi Nagar,
Puducherry - 605 009.
- 3.The Managing Director
Pondicherry Industrial Promotion
Development and Investment Corporation
Ltd., (PIPDIC), Government of Puducherry
No.60, Romain Rolland Street,
Puducherry - 605 001.Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India for issuance of a Writ of Mandamus,
directing the respondents to permit the petitioner to restart
its manufacturing operations.

For Petitioner : Mr.R.Prabhakaran

For Respondent : Mr.N.Mala

Government Pleader for R1 & R2
: Mr.B.Ravichandar for R3

ORDER

This writ petition has been filed for the issue of writ of mandamus directing the respondents to permit the petitioner to restart the manufacturing operations.

2. The case of the petitioner is that they are the manufacturers of Surgical Masks, Shoe Covers and other related products. The petitioner claims that they are supplying the products to Hospitals and other Government Establishments.

3. After the out break of Covid-19, the Government had issued circulars to all industries mandating them to take precautionary steps to prevent the outspread of the virus. Various protocols were issued to the industries and they were asked to follow it strictly. The directions issued by the Government had the statutory backing of the Disaster Management Act and the Epidemic Diseases Act and violation of the same had serious consequences, including registration of criminal cases.

4. The petitioner had employed more than 100 labourers. The authorities found that the petitioner did not follow the precautionary measures and therefore, made an inspection and found various lapses in complete violation of Factories Act and Rules made thereunder. The petitioner organization was found to be not following the protocol. The result of the same is narrated in paragraph 12 of the counter affidavit filed by the second respondent and the same is extracted hereunder.

"I humbly submit that totally 105 workers of the factory were tested and 57 workers were diagnosed positive for Covid-19 and treatment provided. Further 41 contacts of the workers were also diagnosed positive for Covid -19 and provided treatment at the expense of Government of Puducherry. Hence the factory contributed a total of 98 positive cases of Covid-19 which at one point of time was 1/3 of the total cases tested positive in Puducherry. This shows sheer negligence on the part of factory management in following properly the SOP's/MHA guidelines. The factory contributed to sudden surge in Covid-19 cases. I submit that the Government of Puducherry had to incur expenditure on the testing isolation and treatment of the infected workers."

5. In view of the above, a complaint was also lodged by the Tahsildar before the Police and an FIR came to be registered against the petitioner and persons in charge of the company on 26.06.2020 and the establishment was also directed to be closed

in order to prevent any further spread. Aggrieved by the same the petitioner made a representation to the respondents on 06.07.2020. Since the same was not considered, the present writ petition has been filed before this Court seeking for appropriate directions.

6. The learned counsel for the petitioner submitted that the petitioner was contributing to the Government by supplying face masks and the petitioner establishment was closed down from June 2020 onwards. The learned counsel further submitted that all those who were found to be Covid positive, have recovered and there is a work force which is prepared to work. The learned counsel submitted that the petitioner will follow all protocols and will operate with limited number of persons. Therefore, the respondents can be directed to consider the request made by the petitioner and permit the petitioner to restart the factory subject to any conditions that may be imposed by the respondents.

7. Mrs.R.Mala, learned Government Pleader appearing on behalf of the first and second respondents apart from reiterating the stand taken by the respondents in the counter affidavit, submitted that the petitioner establishment was the main reason for nearly 98 persons testing positive for Covid-19 Virus. The learned counsel further submitted that the petitioner wanted to take advantage of the situation and increase their revenue and had therefore employed more number of workers without any permission. The learned counsel further submitted that unless the Government takes stringent action, they will not be able to prevent the spread of the deadly virus. The learned counsel concluded her arguments by submitting that permitting the petitioner to reopen the factory at this stage will defeat the steps taken by the Government to prevent the spread of the virus.

8. The learned counsel appearing on behalf of the third respondent who is the lessor of the petitioner, adopted the arguments made by the learned Government pleader and submitted that the petitioner has approached this Court without providing the correct details and the petitioner was mainly responsible for the spread of the virus at Puducherry and therefore, no concession should be shown by this Court for the petitioner.

9. This Court has carefully considered the submissions made on either side and the materials available on record.

10. The averments made at paragraph 12 of the counter affidavit portrays the reason behind directing the petitioner establishment being directed to close down the factory. The petitioner establishment has contributed to the spread of virus

and the number is quite staggering. The steps were taken by the respondents keeping in view the larger public interest. This Court must be very slow in interfering with the steps taken by the Government. This Court does not find any merits to grant the relief sought for by the petitioner. The petitioner has to necessarily wait till normalcy is restored and permitting the petitioner to reopen the establishment will send wrong signals. This Court cannot exercise its discretion for an action taken by the Government based on certain prevailing facts and more particularly in a pandemic situation that is threatening the entire human race. As and when normalcy returns, the petitioner can approach the respondents and seek permission to resume the operations.

11. In the result this writ petition is dismissed. No cost. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar (CS-I)

True Copy
Sub-Assistant Registrar

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To:

1. The Secretary to Government
Department of Industries & Commerce,
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Puducherry - 605 001.
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Government of Puducherry
No.60, Romain Rolland Street,
Puducherry - 605 001.

+1cc to M/s.D.Ravichander SR.27105

+1cc to M/s.R.Prabhakaran SR.26754

Pre-Delivery Order in
W.P.No.9381 of 2020
and W.M.P.No.11464 of 2020

VS (CO)

VS 27.08.2020