

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.10.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

WP.No.14403 of 2020
and WMP.No.17889 of 2020

KT Ragupathy

...Petitioner

Versus

1.The District Collector,
District Collectorate,
Gopalapuram,
Coimbatore 641 018.

2.The Tahsildar,
Anaimalai Taluk,
Anaimalai,
Coimbatore 642 104.

3.The President,
Kaliapuram Village Panchayat,
Kaliapuram PO 642129.

4.The Block Development Officer,
Anaimalai Union,
Anaimalai,
Coimbatore 642 104.

...Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Mandamus directing the respondents to re-locate the place of establishment of the slaughterhouse pursuant to the auction notice dated 24.07.2020 issued by the 3rd respondent with immediate effect.

For Petitioner : Ms.Josephine Shreela G

For Respondents : Ms.R.J.Radhika
Government Advocate for R1 to R4

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

The petitioner, who is a resident of Marappa Gounder Street, V.Kalipauram PO, Anamalai Taluk, Coimbatore, came forward to file this Writ Petition styled as a Public Interest Litigation stating among other things that the 3rd respondent has issued a auction notice dated 24.07.2020, praying for auction of the shops to sell meat on 31.07.2020 at about 10.00am in their office and it was followed by auction sale and proceeded by auction sale notice dated 21.07.2020 issued by the very same respondent. The learned counsel appearing for the petitioner would submit that the public of V.Kaaliapuram Village has also sent a representation to the 1st respondent stating among other things that the location of the shop selling

meat and chicken is very near to the public convenience, Veterinary Hospital, overhead tank, Palaniammal Primary School and Magaliamman Temple and apart from causing hazards to public health, it also would result in nuisance and health hazard and also would affect the public sentiments and prays for appropriate orders forbearing the 3rd respondent from proceed further. Since the said representation is yet to be considered and disposed of and taking advantage of the same, the 3rd respondent also proceeding further, came forward to file this Writ Petition.

2. Heard the submission of the learned Government Advocate appearing for the respondents 1 to 4.

3. During the course of arguments, this Court has put a specific query to the learned counsel appearing for the petitioner as to the infraction of any relevant statutory provisions and in response to the same, the learned counsel appearing for the petitioner prays for disposal of this Writ Petition, styled as a Public Interest Litigation, on equitable grounds.

4. It is relevant to extract Section 151, 156, 157, 159 and 220 of the Tamil Nadu Panchayat Act, 1994:

151. Prohibition against sale in public roads.- *The Executive Authority or Commissioner may, with the sanction of the Village Panchayat or Panchayat Union Council, as the case may be, prohibit by public notice or licence or regulate the sale or exposure for sale of any animal or article in or upon any public road or place or part thereof.*

156. Public slaughter-houses.- *A Village Panchayat may provide places for use as public slaughter-houses and charge rents and fees for their use.*

157. Prohibition or regulation of the use of places for slaughtering animals and the licensing of slaughterers.- *The Government shall have power to make Rules for-*

(a) prohibiting or regulating the slaughter, cutting up or skinning of animals specified in the Rules on all occasions not excepted therein, at places other than public slaughter-houses;

(b) licensing person to slaughter animals specified in the Rules for purposes of sale to the public; and

(c)the inspection of slaughter-houses and of the meat therein and the payment of remuneration to the officers employed for such inspection.

159. Purposes for which places may not be used without a licence.- (1) The Government may, by notification, specify the purposes which in their opinion, are likely to be offensive or dangerous to human life or health or property.

[(2) The Village Panchayat may, with the previous approval of the prescribed authority, notify that no place within the limits of the Panchayat Village shall be used for any of the purposes specified in the notification issued under sub-section (1) without a licence and except in accordance with the conditions specified in such licence.]

(3) No notification issued under sub-section (1) or sub-section (2) shall take effect until sixty days from the date of its publication.

(4) The Village Panchayat shall be the authority competent to grant the licence or to refuse to grant it.

220. General provisions regarding licence and permissions.- (1) Save as otherwise expressly provided in

or may be prescribed under this Act, every application for any licence or permission under this Act or any rule, bye-law or regulation made thereunder, or for the renewal thereof, shall be made not less than thirty and not more than ninety days before the earliest date with effect from which, or the commencement of the period (being a year or such less period as is mentioned in the application) for which the licence or permission is required.

(2) Save as aforesaid, for every such licence or permission, fees may be charged on such units and at such rates as may be fixed by the [panchayat or the collector, as the case may be], provided that the rates shall not exceed the maximum, if any prescribed.

[Provided that for every licence for hoardings, the fees may be charged at such rates as may be fixed by the Government.]

(3) Save as aforesaid, if orders on an application for any such licence or permission are not communicated to the applicant within thirty days or such longer period as may be prescribed in any class of cases after the receipt of the application by the Executive Authority of the Village Panchayat or the Commissioner or [the [Secretary] or the Collector], the application shall be

deemed to have been allowed for the period, if any, for which it would have been ordinarily allowed and subject to the law, rules, bye-laws and regulations and all conditions ordinarily imposed.

(4) The acceptance of the pre-payment of the fee for any such licence or permission shall not entitle the person making such prepayment to the licence or permission, but only to a refund of the fee in case of refusal of the licence or permission.

(5) If an act, for which any such licence or permission is necessary is done without such licence or permission, or in a manner inconsistent with the terms of the licence or permission obtained, then-

(a) the Executive Authority of the Village Panchayat or the Commissioner or the [the [Secretary] or the Collector] may by notice require the person so doing such act to alter, remove, or as far as practicable restore to its original state, the whole or any part of any property, movable or immovable, public or private affected thereby within a time to be specified in the notice; and further.

(b) if no penalty has been specially provided in this Act for so doing such act the person so doing it

shall be punishable with the fine not exceeding fifty rupees for such offence.

(6) Whenever any person is convicted of an offence in respect of the failure to obtain any such licence or permission, the Magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the Panchayat the amount of the fee chargeable for the licence or permission, and may, in his discretion, also recover summarily and pay over to the Panchayat such amount, if any, as he may fix as the costs of the prosecution".

5. A perusal of the impugned auction notices dated 21.07.2020 as well as 24.07.2020 issued by the 3rd respondent did not indicate as to the compliance of the said statutory provisions. It is also relevant to take note of the Tamil nadu Panchayat (Opening and Maintenance of Market) Rules, 2000 and Tamil Nadu Panchayat (Procedure for conducting Public auction of Leases and Sales in Panchayats) Rules 2001.

6. This Court taking into consideration the above facts and circumstances and without going into the merits of the claim projected by

the petitioner either in his representation or in this Writ Petition, directs the 1st respondent to take note of the above cited statutory provisions and Rules and after eliciting response from the respondents 3 and 4, consider and dispose of the petitioner's representation dated 03.08.2020 on merits and in accordance with law and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as the respondents 3 and 4.

7. The Writ Petition stands disposed of accordingly. No costs. Consequently connected miscellaneous petition is closed.

[M.S.N.,J]

[R.H., J]

12.10.2020

Internet: Yes /No

Index: Yes/No

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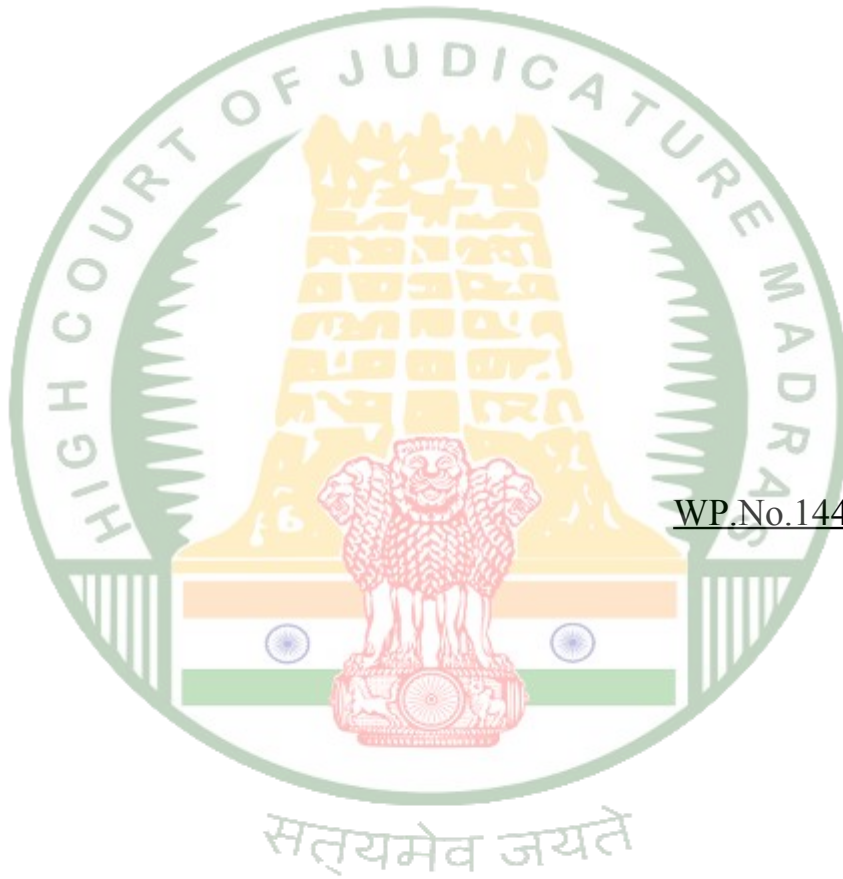
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R.HEMALATHA, J.
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