



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P (MD) No. 7923 of 2019

and

W.M.P (MD) .Nos. 6268 and 19431 of 2019

WEB COPY

Murugan

.. Petitioner

Vs.

1.The Commissioner,
Municipal Administration,
Chennai 600 005.

2.The Regional Director of Municipal Administration,
Rajendra Chatram, Leigh Bazaar Road,
Arisipalayam, Salem.

3.The Commissioner,
Kulithalai Municipality,
Municipal Office,
Kulithalai 639 104, Karur District.

4.A.Sekar

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records in respect of order dated 20.09.2018 in Naa.Kaa.No.2220/2018/H1 issued by the third respondent and quash the same and direct the third respondent to renew the license granted to the petitioner in (D&O) No.083/2018/000077.

For Petitioner : Mr.RM.Sivakukmar
for Mr.V.Meenakshisundaram

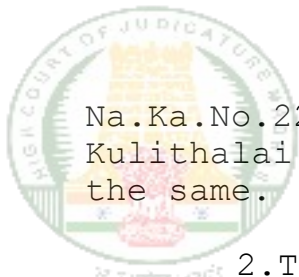
For Respondents : Mrs.J.Padmavathi Devi
Special Government Pleader (for R1 & R2)

Mr.M.Rajarajan
Government Advocate (for R3)

Mr.R.Murugappan (for R4)

ORDER

The writ petition is filed in the nature of Certiorarified Mandamus calling for the records of the order dated 20.09.2018 in <https://hcservices.ecourts.gov.in/hcservices/>



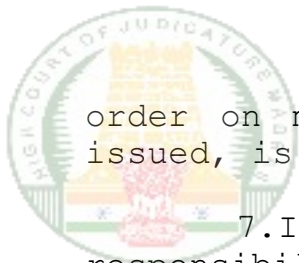
Na.Ka.No.2220/2018/H1 passed by the third respondent/Commissioner, Kulithalai Municipality, Kulithalai, Karur District and to set aside the same.

2.The petitioner viz., Murugan is running a welding shop under the name of 'Modern Industries' at Vaiganallur Agraharam, Part II, Sungagate, Kulithalai. He has obtained license to run the shop in license No.083/2018/000077. It is stated by the learned counsel for the petitioner that the shop has been running from 1998. He had also obtained necessary permission from the small scale industries. It is stated that there was a feud between the petitioner and the fourth respondent, who is a neighbour and this has led to the filing of a criminal complaint against the fourth respondent by the petitioner, which in turn, either for the same reason or taking it as a public cause, led the fourth respondent to file a writ petition in W.P(MD).No.17255 of 2018 seeking an order forbearing the District Collector, Karur and the third respondent herein from permitting the petitioner to run the welding shop. When the said writ petition came up for hearing before this Court, the third respondent passed an order, which is now impugned in the present writ petition, stating that the license of the petitioner has been cancelled. In view of that W.P(MD).No.17255 of 2018 was closed. The present writ petition is filed challenging the said order.

4.Heard the learned counsel for the petitioner, learned Special Government Pleader for the respondents 1 and 2, learned Government Advocate for the third respondent and learned counsel for the fourth respondent.

5.A perusal of the impugned order shows that though it is passed by the third respondent, no notice was issued to the petitioner prior to passing of the impugned order and though a representation seeking time was received by the third respondent, there is no reference in the said notice and no reason was given, either to grant time or to refuse to grant time.

6.The learned counsel for the fourth respondent points out the terms and conditions of the license and stated that one of the primary conditions is that if the trade is found to be a nuisance or otherwise objectionable, then the third respondent may revoke the license at any point of time. However, even that aspect has not given as a reason in the impugned order and it is not known why the license was cancelled. Therefore, without going into merits of the contentions raised, the impugned order is set aside. The third respondent is given an opportunity to issue fresh notice to the petitioner. The petitioner is at liberty to give reply the said notice. During hearing on the reply, if deemed necessary, the third respondent may also issue notice to either the fourth respondent or to any other person to raise objection and then hear all the parties and after obtaining submissions in writing, also permit them to file



order on merits with reasons. The entire process, if notice is issued, is to be concluded on or before 30.06.2020.

7. It is hoped that the petitioner would act with responsibility. The shop in question is running in the middle of a residential area, where the students are studying, and therefore, till the exams are over, a restraint order is passed against the welding activities for a limited period of time. It is made clear that this should not have any bearing on any of the authorities and cannot also be taken as a ground either by the fourth respondent or by any other person seeking any order as against the petitioner herein. Neither can it be used as against the petitioner.

8. With the above observations, the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmk

To

1. The Commissioner,
Municipal Administration,
Chennai 600 005.

2. The Regional Director of Municipal Administration,
Rajendra Chatram, Leigh Bazaar Road,
Arisipalayam, Salem.

3. The Commissioner,
Kulithalai Municipality,
Municipal Office,
Kulithalai 639 104, Karur District.

+1 CC to M/s.R.M.SIVAKUMAR, Advocate (SR-11042[F] dated 11/03/2020)

+1 CC to M/s.SPL.GP (SR-11069[F] dated 11/03/2020)

+1 CC to M/s.M.RAJARAJAN, Advocate (SR-11197[F] dated 11/03/2020)

W.P (MD) No. 7923 of 2019

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