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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10038 of 2013
and
M.P.No.2 of 2013
and
W.M.P.No.9271 of 2018

M.Sakthivel

...Petitioner

Vs

1. The District Collector,
Erode, Erode District.
2. The Rural Development Assistant Director,
(Panchayat)
Erode District, Erode.
3. The Block Development Officer,
Kodumudi, Erode District.
4. Kodumudi Panchayat Union,
Represented by its Chairman,
Kodumudi, Erode District.
5. Anjur Panchayat,
Represented by its President,
Anjur, Kodumudi Panchayat Union,
Erode District.
6. Kousic & Co
Represented by its Managing Director,
K.G.Mohanraj
No.A-24, Housing Unit,
Kollampalayam,
Erode - 638 002.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the first respondent herein in R.C.No.126/2011/A3 dated 06.08.2012 and



also the consequential order issued by the third respondent herein in R.C.No.1804/2011/B2 dated 10.08.2012 and quash the same and consequently direct the respondents to remove and seal the tar mixing unit of the 6th respondent herein.

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For Petitioner	: Mr.R.S.Anandan
For Respondents	
R1 & R2	: Mr.C.Selva Raj Additional Government Pleader
R3	: Mr.N.Srinivasan
R4	: No appearance
R5	: Mr.K.H.Ravikumar
R6	: Mr.K.A.Ravindran

O R D E R

The order passed by the first respondent in proceedings dated 06.08.2012 and the consequential order issued by the third respondent in proceedings dated 10.08.2012 are under challenge in the present writ petition.

2. The petitioner states that the general public submitted a complaint before the authorities for the removal of tar mixing unit on the ground that it will affect their health and they cannot do agricultural work as the area will be polluted.

3. The learned counsel for the petitioner made a submission that earlier the petitioner filed writ petitions in W.P.No.6632 of 2012 and W.P.No.13405 of 2012. This Court passed an order on 05.07.2012 and the relevant paragraphs 18 and 22 are extracted hereunder:

"18. In view of the submissions made on behalf of the parties concerned, and on a perusal of the records available, this Court is of the considered view that the Block Development Officer, Kodumudi, Erode District, the third respondent herein, had issued the temporary licence, in favour of the sixth respondent, to run the blue metal and bitumen tar mixing unit, located in Anjur Village, Erode District, vide his order, dated 7.5.2012, without having the power or the authority to do so. The sixth respondent has not been in a position to show that the third respondent could issue such a temporary licence under the provisions of the Tamil Nadu Panchayats Act, 1994.



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22. By its order, dated 1.12.2011, this Court had directed the Block Development Officer, Kodumudi, Erode District, to consider the application of the sixth respondent, for the grant of a licence, to run the blue metal and bitumen tar mixing unit, in Anjur village, and to pass appropriate orders thereon, after giving an opportunity of hearing to the petitioner and the other persons residing in the area concerned. Instead, the Block Development Officer, Kodumudi, Erode District, had passed an order, dated 7.5.2012, granting a temporary licence to the sixth respondent, to run the blue metal and bitumen tar mixing unit, pursuant to the order passed by the District Collector, Erode District, dated 4.5.2012, without following the directions issued by this Court, by its order, dated 1.12.2011, made in W.P.No.21828 of 2011. In such circumstances, this Court finds it appropriate to set aside the proceedings of the first respondent, dated 4.5.2012, and the consequential proceedings of the Block Development Officer, Kodumudi, Erode District, dated 7.5.2012. The District Collector, Erode District, the first respondent herein, is directed to pass appropriate orders on the application of the sixth respondent, for running the blue metal and bitumen tar mixing unit, in Anjur village, Erode District, on merits and in accordance with law, after giving an opportunity of hearing to the petitioner, the respondents 4 to 6, and the other persons concerned, who may be adversely affected by the running of the blue metal and bitumen tar mixing unit by the sixth respondent, in accordance with the procedures established by law, as expeditiously as possible, not later than four weeks from the date of receipt of a copy of this order. The petitioner, as well as the respondents 4 to 6, shall co-operate, fully in the enquiry proceedings to be held by the first respondent."

4. Relying on the said orders passed by this Court, the learned counsel for the petitioner states that the license granted in favour of the 6th respondent is improper and the grievances of the people at large in that locality were not considered by the competent authority.

5. However, the learned Additional Government Pleader appearing on behalf of the respondents 1 and 2 made a submission that pursuant to the orders of this Court, a public hearing was conducted and the views and objections of the public at large were taken into consideration and accordingly, the District Collector formed an opinion that running of the tar mixing unit will not affect the public interest and accordingly, the license



was granted in favour of the 6th respondent.

6. The learned counsel for the 6th respondent also reiterated that during the public hearing, the merits were considered and the petitioner could able to produce all necessary certificates from the competent authority including the Pollution Control Board and Fire Services Department and it is contended that the District Collector has personally conducted a Field inspection and ascertained the facts and circumstances. After conducting an elaborate enquiry by providing opportunity to the writ petitioner and the public at large, the order impugned has been passed.

7. Perusal of the impugned order dated 06.08.2012 reveals that hearing was conducted and the District Collector has recorded that many families are benefited from and out of the industry as they are providing employment opportunity. The necessary certificates were obtained by the 6th respondent for running the Unit and the Factory is running with modern facilities and equipments and providing employment. The Tamil Nadu Pollution Control Board also granted permission to run the unit. The statutory complaints were already made and established and during the hearing, the District Collector also verified and further conducted a Field inspection and a decision is taken, granting license to the 6th respondent.

8. The learned Additional Government Pleader stated that there is some personal enmity between the petitioner and the 6th respondent, in view of the fact that the petitioner himself sold the land to the 6th respondent for the purpose of establishment of the Factory.

9. This being the factum, there is no reason to interfere with the impugned orders passed by the 2nd respondent and accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Erode, Erode District.



2. The Rural Development Assistant Director,
(Panchayat), Erode District, Erode.

3. The Block Development Officer,
Kodumudi, Erode District.

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+1cc to Mr.R.S.Anandan, Advocate, S.R.No.61418
+1cc to Mr.N.Srinivasan, Advocate, S.R.No.61754
+1cc to Mr.K.H.Ravikumar, Advocate, S.R.No.61450
+1cc to Mr.K.A.Ravindran, Advocate, S.R.No.62132
+1cc to the Government Pleader, S.R.No.61987

W.P.No.10038 of 2013

KSM(CO)
CT 07/12/2021