

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.952 of 2021

M.Jayakumar

... Petitioner

Vs.

1. The District Collector
Nagapattinam District
Nagapattinam.

2. The Block Development Officer
Vedaranyam Taluk
Nagapattinam District.

3. The Tahsildar
Vedaranyam Taluk
Nagapattinam District.

4. The President
Pushpavanam Panchayat
Pushpavanam Village
Vedaranyam Taluk
Nagapattinam District.

5. Haja Bande Nawas

... Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records on the file of the Pushpavanam Panchayat proceedings held on 16.09.2020 and quash the approval granted for construction of the mosque in subject No.5 and consequently, direct the respondents 1 to 4 to demolish the unauthorised construction of mosque in Krishnan Street, Pushpavanam Village, Vedaranyam Taluk, Nagapattinam District.

For Petitioner : Mr.G.Karthikeyan

For Respondents : Mr.V.Jayaprakash Narayanan
State Govt. Pleader
for respondents 1 to 3

Mr.D.Veerasekaran
for respondent-4

Mr.K.V.Subramaniam
for respondent-5

ORDER

(Made by SENTHILKUMAR RAMAMOORTHY, J)

The writ petitioner complains of the alleged unlawful construction of a religious structure at Krishnan Street, Pushpavanam Village, Vedaranyam Taluk, Nagapattinam District.

2. The writ petitioner asserts that the religious structure was constructed in violation of the Tamil Nadu Panchayats Building Rules, 1997. It is also asserted that the fourth respondent does not have the jurisdiction or authority to grant permission for construction, but such permission has been unlawfully granted by proceedings held on 16.09.2020. Consequently, the petitioner seeks to quash the said proceedings and direct the respondents 1 to 4 to demolish the unauthorized structure.

3. Learned State Government Pleader submits that the District Collector is the appropriate authority to examine whether the religious structure has been constructed in accordance with the applicable law or not.

4. Learned counsel appearing for the fifth respondent denies that the construction is illegal.

5. It is needless to state that any construction, whether religious or otherwise, should be erected in compliance with applicable law. If such construction has been put up after complying with all applicable laws, no action should be taken in respect thereof. Whereas, if such construction has been undertaken without complying with the extant law, action may be taken in accordance with law.

6. Subject to the above observation and without expressing any views on the merits of the matter, the writ petitioner is permitted to submit a fresh representation to the first

respondent within a period of two weeks from the date of receipt of a copy of this order. Upon receipt thereof, the first respondent is directed to consider such representation and pass a reasoned order, after providing a reasonable opportunity to all affected parties, including the petitioner and the fifth respondent herein. Such reasoned order shall be passed within a period of three months from the date of receipt of the said representation. Till such time that a final decision is taken in the matter, all parties are requested to ensure that there is no breach of peace or disturbance at the present site and the police and government authorities will ensure accordingly.

7. W.P.No.952 of 2021 is disposed of on the above terms. There will be no order as to costs. W.M.P.Nos.1036 and 1037 of 2021 are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kpl/ssm

To

1. The District Collector
Nagapattinam District
Nagapattinam.

2. The Block Development Officer
Vedaranyam Taluk
Nagapattinam District.

3. The Tahsildar
Vedaranyam Taluk
Nagapattinam District.

4. The President
Pushpavanam Panchayat
Pushpavanam Village
Vedaranyam Taluk
Nagapattinam District.

+1 cc to Mr.D.Veerasekaran, Advocate Sr.No. 19570

+1 cc to Mr.G.Karthikeyan, Advocate Sr.No. 19308

+1 cc to The Government Pleader Sr.No. 19918

W.P.No.952 of 2021

LN (CO)

RMP (17/04/2021)