

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 3.2.2021

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.No.2126 of 2021

K.Ayyandurai

Petitioner

vs.

1. The District Collector,
Collectorate, Salem District.
Salem.

2. The Block Development Officer,
Idappadi Taluk,
Salem District.

3.The President/Executive Officer,
Aavani Perur Keelmugam Panchayat,
Idappadi Taluk, Salem District.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the third respondent to place the application of the petitioner dated 2.11.2020 and the representation dated 12.12.2020 before the Panchayat Council Meeting for appropriate resolution under the Tamil Nadu Panchayats Act and its relevant rule within the prescribed time limit for granting necessary licence to the petitioner to open private market.

For Petitioner : Mr.C.Kulanthaivel

For Respondents : Mr.D.Venkatesan, Govt. Advocate

For R2 & R3 : Mr.V.Jayaprakash Narayanan
Govt.Pleader for R2 & R3

ORDER

This writ petition is filed for a mandamus directing the third respondent to place the Application of the petitioner dated 2.11.2020 before the Panchayat Council for appropriate resolution under the Tamil Nadu Panchayats Act and its relevant Rule within the prescribed time limit for granting necessary licence to the petitioner to open private market.

2. This petitioner has made certain arrangements to set up a private market including livestock, vegetable and two wheelers

market in S.No.204/2A to 2F at Mallipalayam, Aavani Perur Keelmugam Village Panchayat and has taken over 1.5 acres of vacant land on lease from one Palanisamy son of Seerangan. He has also made arrangements for water lines, drainage, public conveyance and surveillance cameras in order to convert the land as a market. After arranging the aforesaid requirements, the petitioner made an application to the third respondent on 2.11.2020 and also furnished necessary documents alongwith the application, however, the third respondent has not granted licence as per Sections 147 and 148 of the Town Panchayat Act, 1994 and the Tamil Nadu Panchayats (Opening and Maintenance of Market) Rules, 2000.

3. Mr.V.Jayaprakash Narayanan, learned Government Pleader takes notice for second and third respondent. Mr.D.Venkatesan, learned Government Advocate takes notice for the first respondent.

4. Mr.Jayaprakash Narayanan, the learned Government Advocate, by referring to Rule 7 of the Tamil Nadu Panchayats (Opening and Maintenance of Market) Rules 2000, would submit that no person shall maintain a private market without obtaining licence from the Village Panchayat and the licence can be considered only on furnishing details and information specified under Rule 7.

5. Rule 7 prescribes the following documents to be enclosed alongwith the application:-

"(a) records showing the title of the applicant to the proposed site or land or a lease deed for renting a site with a sketch;

(b) provisions made or to be made for the drainage or storm water disposal system;

(c) provisions made or to be made for sanitary facilities for the use of the visiting public;

(d) provisions made or to be made for proper and adequate access to the proposed market site from a public road or street;

(e) the rates of fees or rents proposed to be charged for keeping articles or goods for sale to the public;

(f) details as to whether it is weekly market or a daily market and the day or days of assembly in a week;

(g) arrangements made or to be made for the

disposal of sweepings, garbage, cattle dung or market waste;

(h) arrangements made or to be made for providing adequate water including drinking water to the visiting public and toilet facilities; and

(i) such other details or informations, as may be found necessary, and required by the Executive Authority or the Commissioner, as the case may be, in respect of a particular site or application."

6. The learned Government Pleader also referred to Rule 8 of the Tamil Nadu Panchayats (Opening and Maintenance of Market) Rules 2000 and submitted that if there is any public market of Village Panchayat or the Panchayat Union Council available and within the radius of 10 Kms, then no private market can be permitted within such a radius. He would further submit that there are already two markets one at Konganapuram and another at Iruppalai within a radius of 8 and 7 kms respectively and therefore, the opening of a private market by this petitioner within a radius of 10 kms is not feasible.

7. With regard to this objections raised by the third respondent, Mr.Kulandaivel, learned counsel for the petitioner submits that he has made all arrangements as contemplated under Rule 7 and also enclosed necessary documents and he is ready to furnish all the documents once again. The learned counsel for the petitioner further submits that even if there is any market existing as claimed by the respondent, as per Rule 8 of the Tamil Nadu Panchayats (Opening and Maintenance of Market) Rules 2000, the application seeking to open a private market has to be placed before the Panchayat Union Council and the Panchayat Union Council has to ascertain whether the private market sought to be opened would affect the existing public market and has to take a decision. He would further submit that the markets referred by the respondent are not markets of the Village Panchayat or the Panchayat Union Council and moreover the market proposed to be opened by the petitioner would not affect the other markets in the adjacent villages.

8. Considering the rival submissions, this court issues a direction to the petitioner to submit a fresh application alongwith relevant documents as prescribed under Rule 7 of the Tamil Nadu Panchayat (Opening and Maintenance of Market) Rules 2000 within a period of one week from the date of receipt of a copy of this order and on receipt of such Application, the third respondent shall place it before the Panchayat Union Council within a period of 2 weeks from thereon and take a decision on the application within 3 weeks therefrom.

With the above observation, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS.III)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
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Salem.

2. The Block Development Officer,
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Salem District.

3. The President/Executive Officer,
Aavani Perur Keelmugam Panchayat,
Idappadi Taluk, Salem District.

+1cc to Mr.V.Jayaprakash Narayanan, Advocate SR.No.6497

+1cc to Mr.C.Kulanthaivel, Advocate Sr.No.5984

+1cc to The Government Pleader Sr.No.5888

AKM/24.2.21

/4P-7C/

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