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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.07.2021

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.11146 of 2021

and

WMP No.11777, 11779, 11780 and 11781 of 2021

V. Srinivasan

... Petitioner

Vs.

1. District Collector,
Coimbatore District,
7/1, kState Bank Rd., Gopalapuram,
Coimbatore, Tamilnadu 641 018.

2. The Assistant Engineer,
Chinnathadagam Division 017,
Tamil Nadu Generation and Distribution
Corporation Limited,
Office of the Superintending Engineer,
Coimbatore Electricity Distribution Circle North,
Coimbatore 641 018.

... Respondents

Prayer: Writ petition filed under Section 226 of the Constitution of India praying to issue a writ of certiorarified mandamus, calling for the records pertaining to the impugned notice dated 03.04.2021 issued by the second respondent to the petitioner and quash the same and further direct the second respondent to restore the electricity connection to the petitioner's brick chamber.

For petitioner : Mr.Adityaraj
(*)M/s.P.Wilson Associates

For respondents: Mr.M.R.Gokul Krishnan,
Government Advocate for R1
Mr.Abdul Kalam (TNEB) for R2

ORDER

This writ petition has been filed to issue a writ of certiorarified mandamus, calling for the records pertaining to the impugned notice dated 03.04.2021 issued by the second respondent to the petitioner and quash the same and further direct the second respondent to restore the electricity connection to the petitioner's brick chamber.



2. The case of the petitioner is that he is operating a Brick Chamber and doing family business of shaping bricks for their livelihood. The contention of the petitioner is that he buys brick mud/ soil from the third party and making new bricks and he is not involved in quarrying the brick earth and he has not violated the rules laid down by the competent authority.

2.1 The further contention of the petitioner is that as a public interest litigations, two writ petitions in W.P.No.27356 of 2019 and W.P.No.28475 of 2019 had been filed and in the above writ petitions, the Division Bench of this court vide order dated 10.02.2021 has passed an interim orders, as follows:

- a. " to ensure that brick kilns function within the parameters set down and upon obtaining license remain confined to the areas demarcated and
- b. Burgeoning brick kilns encroach into forest lands or elephant corridors should be proceeded against without undue delay"

Based on the above mentioned orders, the second respondent has issued the impugned notice dated 03.04.2021 stating that pursuant to the common order issued in W.P.No.27356 and 28475 of 2019 dated 10.02.2021 and together with the order of the first respondent dated 17.03.2021, the electricity supply was disconnected.

2.2. According to the petitioner, the impugned notice was issued without issuing a show cause notice or giving an opportunity of hearing to the petitioner. It is further contended by the petitioner is that several owners of the Brick Kilns operating in the villages filed impleading petitions in WMP No.9090 and 9121 of 2021 in W.P.Nos.27356 and 28475 of 2019 respectively, and after hearing the parties, the Division Bench has passed the following order on 31.03.2021.

" The owners of several brick kilns are parties to these proceedings. Others, who are not parties to these proceedings, seek to be impleaded. Such owners suggest that the measures taken by the State to close down some of the brick kilns are in colourable exercise of authority and without following the procedure established by law. To the extent that the relevant brick kiln owners have any grievance against the State for the manner adopted in closing down the units, such owners and manufactures will be entitled to approach the appropriate forum in accordance with law"



and pursuant to the liberty granted by the Division Bench, this writ petition has been filed.

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3. The learned counsel appearing for the petitioner submitted that similar writ petition has been filed before this court in W.P.No.9606 of 2021 etc. batch, wherein, this court by order dated 30.04.2021 has passed orders and he drew the attention of this court to the relevant portion of the said order, which is extracted here under

22. For the foregoing reasons, without delving much upon the merits and demerits of the other submissions of the learned counsel on either side, excepting incorporating the same hereinabove, this court is of the opinion that the impugned orders need interference by this court. Accordingly, the impugned orders are set aside and the District Collector, Coimbatore, who is the competent authority under the statute, shall pass appropriate orders with respect to all these petitioners after affording an opportunity of hearing within a period of four weeks from the date of receipt of a copy of this order. The impugned orders would be treated as notices to the petitioners for appearing before the District collector. No separate notice in this regard will be issued to the petitioners. The petitioners are at liberty to submit all relevant documents in support of their claim. It is made clear that no further extension of time would be granted to the District Collector to complete the above exercise of passing the appropriate orders qua these petitioners. The District Collector, Coimbatore, shall proceed with the further process based on the web copy of this order, without waiting for the certified copy.

23. It is open to the respondents to take any action against the brick kilns, including the petitioners, if it is found that the same has been operated without any license/clearance in the manner known to law. This order would not preclude the authorities in exercising their powers inaccordance with law. It is also made clear that the owners of the brick kilns can run the show, if they possess a valid licence and other documents to do so.



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24. These writ petitions are ordered to the extent indicated above. However, there shall be no order as to costs. Consequently, WMP Nos.1163 and 11786 of 2021 are dismissed and the other connected writ miscellaneous petitions are closed."

Hence, the learned counsel prayed that in the same line of the above said order, this writ petition can also be disposed.

4. At this juncture, the learned counsel appearing for the second respondent would submit that the ground raised by the petitioner shall be decided only by the first respondent namely the District Collector of Coimbatore and hence, following the above said order, it is for the petitioner to satisfy the first respondent by placing all the required materials and seek appropriate remedy, but the petitioner without approaching the first respondent, has filed the present writ petition before this court.

5. A perusal of the order passed by this court in W.P.No.9606 of 2021 etc. batch dated 30.04.2021 shows that, impugned order was passed by the District Collector to close the brick kilns, against which the above said writ petitions were filed. But here in this case, the Electricity Board has issued the impugned notice, disconnecting the electricity service connection given to the petitioner. Therefore, following the above said order passed by this court in W.P.Nos.9606 of 2021 etc. batch, the petitioner has to approach the District Collector by furnishing all the materials in support of his claim and seek remedy.

6. Accordingly, the petitioner is directed to approach the first respondent namely the District Collector, Coimbatore and give representation along with all the relevant documents in support of his claim, within a period of two weeks from the date of receipt of a copy this order and on such representation being given by the petitioner, the first respondent is directed to consider the same and pass appropriate orders in the light of the orders passed in W.P.No.9606 of 2021 etc. batch dated 30.04.2021, as early as possible, within a period of four weeks from the date of receipt of the representation.



7. With the above direction, this writ petition is disposed of. No costs. Connected writ miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS III)
Dated:28/07/2021

**(*)Corrected as per letter
dated 25/08/2021 in
W.P.No.11146 of 2021
Sd/-
Assistant Registrar (CS-III)
Dated:01/09/2021**

//True Copy//

Sub Assistant Registrar

mst
To

1. District Collector,
Coimbatore District,
7/1, kState Bank Rd., Gopalapuram,
Coimbatore, Tamilnadu 641 018.
2. The Assistant Engineer,
Chinnathadagam Division 017,
Tamil Nadu Generation and Distribution
Corporation Limited,
Office of the Superintending Engineer,
Coimbatore Electricity
Distribution Circle North,
Coimbatore 641 018.

To be substituted for
the order already
despatched on
24/08/2021

+1cc to Mr.P.Wilson Associates, Advocate, S.R.No. 32898
+1cc to the Government Pleader, S.R.No. 33303

W.P.No.11146 of 2021 and
WMP No.11777, 11779, 11780
and 11781 of 2021

UM(CO)
GN(05/08/2021)
srg 02/09/2021