



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2021

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD)No.1825 of 2021

and

W.M.P. (MD)Nos.1560 and 1562 of 2021

Sudhakar Jayaraj

: Petitioner

Vs.

1.The District Collector,
Ramaathapuram District,
Ramanathapuram.

2.The Sub Collector,
Ramahtapuram, Ramanathapuram District.

3.The Tahsildar,
Ramanathapuram, Ramanathapuram District.

4.The Executive Officer,
Mandapam Town Panchayat,
Ramanathapuram District.

5.M.Palsamy

6.Manohari

7.Marichamy

8.Chithra Devi

: Respondents

(R5 to R8 were impleaded vide order of this Court, dated 22.02.2021 in W.M.P. (MD)No.2893 of 2021)

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records relating to impugned order passed by the first respondent District Collector in Na.Ka.C2/50732/2020, dated 21.01.2021 and quash the same.

For Petitioner

:Mr.Godson

For R1 to R3

for Mr.H.Thayumanaswamy

:Mr.C.Ramesh

Special Government Pleader

For R4

:Mr.M.Murugan

Government Pleader

For R5 to R8

Mrs.Porkodi Karnan

for M/s.Polax Legal Solution



ORDER

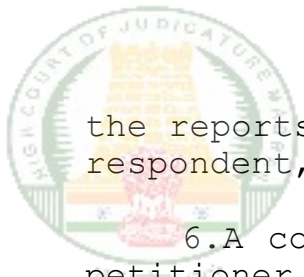
The petitioner claims himself to be the hotelier having hotels and resorts in the name of J's Heritage. He claims himself to belong to 'Jayaraj Group' and has been involved in the business of tourism and hospitality for over three generations. The petitioner owns 84 cents of land in S.Nos.12 and 14/2A1 at Thoppukadu Village in Mandapam Town Panchayat. It was a plain land and no agricultural activities are possible due to coastal bed. The said land is located very close to the Gulf of Mannar at Mandapam, Ramanthapuram District.

2.The petitioner has proposed to build a cabana by refurbishing the used cargo containers with the total measurement of 320 sq.ft., of each container and used the same as resort in the course of his hospitality business. The petitioner claims to have obtained permission from the authorities and put up some cabanas and rented out the same for tourists. The cabanas have been widely used by tourists from outside and the petitioner claims to have fulfilled all the requirements for running of the cabanas and also paid all statutory duties payable to the authorities concerned. The petitioner has also been granted electricity service connection to the resort.

3.The present grievance of the petitioner is that while he has been successfully running the cabanas, since 2017, the first respondent issued proceedings, dated 21.01.2021 and ordered closure of the resort on the ground that there was no permission obtained by the owner of the resort for running the resort. The first respondent appears to have collected reports from the officials and also considered the serious objections from the local people. The first respondent on the basis of the reports and the objections of the local residents, has concluded that the resorts have been used by outsiders, whose activities during their stay have not been conducive or congenial to the public peace and order, that is prevailing in the locality. Challenging the same, the present Writ Petition is filed.

4.Notice was ordered in this Writ Petition and in response to the same, Mr.C.Ramesh, learned Special Government Pleader entered appearance on behalf of respondents 1 to 3 and Mr.M.Murugan, learned Government Advocate entered appearance on behalf of the fourth respondent and Mrs.Porkodi Karnan, learned Counsel entered appearance on behalf of the respondents 5 to 8.

5.This Court, in the course of preliminary hearing, has ordered the production of the reports of the second as well as the third respondents, on the basis of which, the impugned action has been taken by the first respondent. In response to the said direction,



the reports of the second respondent, dated 08.01.2021 and the third respondent, dated 28.12.2020 have been produced.

6.A counter affidavit has also been filed and on behalf of the petitioner, reply affidavit has been filed.

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7.Both the reports of the authorities clearly point out one basic fact that the petitioner herein has not obtained any permission for starting or running of the resort in the first place. In fact, the report of the second respondent clearly demonstrate that the petitioner had been unlawfully running the resort and there were untoward activities noticed and indulged by the tourists during their stay there. The report also recorded the legitimate objection of the local people and there were series of protests and complaints by the local people against the location of the resorts and manner of its usage. According to the local resident, the location of the resort in the place is illegal and in violation of the environmental laws and ecological conservation.

8.When the learned Counsel for the petitioner was confronted with the reports, as to how the petitioner could run the resort without any licence or permission from the authorities, the learned Counsel would submit that the petitioner has already submitted an application for licence and is pending before the first respondent. But, the learned Counsel earlier took a stand that for the kind of shelter, which he had built through used containers (popularly known as cabana), no permission was necessary at all.

9.This Court is unable to appreciate the arguments by the learned Counsel for the petitioner that the tourist resorts could at all exist on the outskirts of any legal requirements. Such a presumption on the part of the petitioner is actually is an exhibit of his guile, as a facade to his justification in running the resorts all these times. When a resort of the present type is being run, unless and until, a proper permission or approval is obtained from the authorities concerned, such resorts cannot be allowed to exist under any circumstances. In any event, this Court finds that the reports of both the second and third respondent are adverse to the locality of the resort and its usage, which cannot be ignored by this Court. In the said circumstances, this Court has to necessarily discountenance the case of the petitioner and hold that the challenge is not maintainable.

10.It is an admitted case that the petitioner has not obtained any licence/ permission or approval from the authorities and now, he has submitted before this Court that there is an application pending seeking permission/approval for running of the resort. In which event, the resort which has already been in existence cannot be allowed to continue its activity, as its existence as on date is illegal and in that view of the matter, the impugned order of



closure has to be upheld. In the said circumstances, the Writ Petition is liable to be dismissed.

11.While this Court expressed its intention to dismiss this Writ Petition, in view of the damning reports of the second and third respondents, the learned Counsel for the petitioner would request this Court to give liberty to the petitioner to approach the authorities concerned seeking appropriate licence to run the resorts. This request was made, when this Court was informed that there was factually no application pending seeking licence from the authorities concerned.

12.In view of the above, the Writ Petition stands dismissed as being completely devoid of merits and substance. However, the petitioner is at liberty to approach the authorities concerned seeking grant of licence/approval or permission for running of the resort as proposed. If any application is submitted in that regard, the same may be considered and disposed of by the authorities concerned expeditiously. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

- 1.The District Collector,
Ramaathapuram District,
Ramanathapuram.
- 2.The Sub Collector,
Ramahtapuram, Ramanathapuram District.
- 3.The Tahsildar,
Ramanathapuram, Ramanathapuram District.

+1 CC to M/s.H.THAYUMANASAMY, Advocate (SR-10267[F] dated 11/03/2021)

+1 CC to M/s.SPL GP (SR-10570[F] dated 11/03/2021)

W.P. (MD)No.1825 of 2021

10.03.2021

AS (07.06.2021) 3P 6C