



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.5191 of 2021

and W.MP(MD).No.4166 of 2021

WEB COPY

Gunasekaran Ponmani

... Petitioner

Vs.

1.The District Collector
Tirunelveli District
Tirunelveli

2.The Tahsildar
Thisaiyanvilai Taluk
Tirunelveli District

3.The District Environmental Engineer
Tamil Nadu Pollution Control Board
No.30/2, SIDCO Industrial Estate
Pettai, Tirunelveli

4.The Commissioner /Block Development Officer
Radhapuram Panchayat Union
Radhapuram
Tirunelveli District

5.The Executive Engineer
Tamil Nadu Electricity Board
Valliyoor
Tirunelveli District

6.The Junior Engineer
Tamil Nadu Electricity Board
Rural Office
Thisaiyanvilai
Tirunelveli District 627 657

7.A.Murugesan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondent Nos.1 to 6 more particularly the 1st respondent to take appropriate action on the 7th respondent for illegally running a Plastic Grinding Unit in a property bearing Survey No.78/12 situated at Muthumothanmozhi Village, Thisaiyanvilai Taluk, Tirunelveli District and consequently, close the said Unit forthwith by considering his



representation dated 08.01.2021 within a time frame as stipulated by this Court.

For Petitioner : Mr.S.Palani Velayutham
For Respondents 1,2 & 4: Mr.A.K.Manickam
Standing Counsel for Government
For Respondent 3 : Mr.S.Bagirathan
For Respondents 5 & 6 : Mrs.S.Srimathy
For Respondent 7 : Mr.J.Bharathan

ORDER

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

This writ petition, styled as a Public Interest Litigation, to take appropriate action against the 7th respondent, who is alleged to have been running a Plastic Crushing Unit.

2. Several allegations have been made by the petitioner against the 7th respondent, more particularly, that he has not obtained any order of consent from the Tamil Nadu Pollution Control Board. The report given to the authorities was taken note of by the 4th respondent and he had directed the Block Development Officer and the Secretary of the Panchayat to cause inspection of the property and to submit a report. Since nothing happened thereafter, the petitioner is before this Court.

3. The 7th respondent has entered appearance through counsel and submitted that the writ petition is purely a private interest litigation as there is an enmity and animosity between the petitioner and 7th respondent in respect of the immovable property and a suit was filed in O.S.No.1 of 2014 on the file of the District Munsif, Valliyoor, which is now culminated into an appeal in A.S.No.81 of 2019 on the file of the Sub Court, Valliyoor. Therefore, it is submitted that the entire allegation made against the 7th respondent is on account of *mala fide* intention.

4. We are conscious of the fact that this writ petition has been filed as a Public Interest Litigation. Therefore, the role of the petitioner would stop at the point when he pointed out the illegality which is being committed, which in his opinion is against the public opinion, thereafter, it is the role of the Court. The Court is empowered to discharge the petitioner and yet proceed with the litigation. Therefore, we are not inclined to go into the controversy and the dispute between the petitioner and 7th respondent, etc. What is required to be seen in the instant case is that whether the operation done by the 7th respondent is authorized or not.

5. The counter affidavit filed by the 3rd respondent gives an aid/assistance to take a decision in the matter. The following averments in the counter would be relevant:

<https://hcservices.ecourts.gov.in/hcservices/>



"3. I respectfully submit that the unit was inspected on 11.03.2021 by the AEE of this office and noticed that a unit by name M/s.Sivasakthi Traders involved in the crushing/grinding of waste plastics to plastic chips and being operated without the consent of Board under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 as amended.

4. I respectfully submit that a show cause Notice was issued to the unit under the provisions of Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981, vide this office proceeding dated 15.03.2021.

5. I respectfully submit that the complaints were also addressed by this office letter dated 15.03.2021 on the action taken against the complaint petition.

6. I respectfully submit that the unit vide its reply dated 29.03.2021 has informed that the unit has stopped the operation and also informed that the unit will be operated only after obtaining the consent of the Board."

6. In the light of the above, the 7th respondent appears to have realized that he is required to have obtained necessary order of consent from the Pollution Control Board and for such reason, he has given a letter dated 29.03.2021 and stopped the operations and also stated that he will operate only after obtaining the consent. The counter affidavit has also mentioned about the equipment and machineries, which are used by the 7th respondent and what are the type of establishments in and around the premises, which includes the school etc. It may not be necessary for us to go into all these aspects in the light of the stand taken by the 7th respondent before the 3rd respondent as stated in the counter affidavit.

7. Accordingly, we dispose of the writ petition, directing the 7th respondent not to operate unless and until he obtained an order of consent from the Tamil Nadu Pollution Control Board and other requisite licence from the statutory authorities. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSI)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

Ogy/msa
To

- 1.The District Collector
Tirunelveli District
Tirunelveli
- 2.The Tahsildar
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Tamil Nadu Electricity Board
Rural Office
Thisaiyanvilai
Tirunelveli District 627 657

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-19254[F] dated 14/06/2021)

ORDER MADE IN
W.P. [MD]No.5191 of 2021
and W.MP(MD) .No.4166 of 2021
11.06.2021

GS (24.06.2021) 4P 8C