



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2021

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P (MD) No.12893 of 2021

and

W.M.P (MD) .No.9969 of 2021

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M.A.Mohamed Thameem

... Petitioner

Vs.

1.The Principal Secretary,
Government of Tamil Nadu,
Milk and Diary Development,
Fort St.George,
Chennai - 600 009.

2.The District Collector,
Office of the District Collector,
Thanjavur District,
Thanjavur.

3.The General Manager,
Thanjavur District Co-operative Milk Producers,
Nanjikottai Road,
Thanjavur - 613 006.

4.The Divisional Engineer (C&M),
Highways Department,
Thanjavur - 613 001.

5.The Assistant Divisional Engineer, (C&M),
Highways Department,
Pattukottai,
Thanjavur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the third respondent not to cancel the license given to the petitioner for running Avin Parlor No.EC 85 situated at Kumbakonam - Mannarkudi - Adirampattinam Highway near Adirampattinam Bus stand, Pattukottai Taluk, Thanjavur District without following procedure established by law, based on the representation dated 10.07.2021 given by the petitioner.

For Petitioner : Mr.M.Seenisulthan
For Respondents : Mr.J.John Rajadurai,
Government Advocate.



ORDER

The Writ Petition has been filed in the nature of Mandamus seeking a direction against the third respondent / the General Manager, Thanjavur District Co-operative Milk Producers, Nanjikottai Road, Thanjavur, not to cancel the licence given to the petitioner for running Aavin Parlour at No.EC 85 at Kumbakonam - Mannarkudi - Adirampattinam Highway near Adirampattinam Bus stand, Pattukottai Taluk, Thanjavur District without following due process of law. The petitioner had also given a representation on 10.07.2021.

2. The petitioner had been issued a licence to run the said Aavin Parlour by an order of the third respondent dated 06.11.2014. The petitioner had been running the Aavin Parlour continuously. The licence was subsequently renewed at regular intervals.

3. While renewing the licence, on 22.01.2021, the third respondent imposed a condition that the licence would be cancelled without a notice if any objections are received during the course of audit. It is stated that this threat of cancellation, was unreasonable and it was under those circumstances that the petitioner came forward to file the present Writ Petition. I am informed that pending the Writ Petition, the petitioner had been directed to dismantle the shop.

4. During the course of hearing, Mr.J.John Rajadurai, learned Government Advocate who took notice on behalf of the respondents also stated that there was an allegation that the petitioner was also selling non-Aavin products particularly Vada, Bajji and other oil contained foods. The petitioner claimed that he had never sold such products. The petitioner was directed to file an affidavit that he had never sold such products and he would never sell such products. Accordingly, an affidavit has been filed by the petitioner dated 30.11.2021 and presented by the learned counsel for the petitioner.

5. In the aforesaid affidavit, the petitioner had stated as follows:

"5. I state that my Avin parlor is situated very near to Athiramapattinam Bus stand. The hawkers and food vendors used to roam the bus stand by carrying the eatables like Vada, Bajji and other foods made out of oil. The above said vendors would also come near my Avin parlor and would sell the eatables. However I would chase and advise them to move away from there. In such circumstances it would lead to misunderstand that the eatables selling by the hawkers and



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food vendors from my Avin parlor. I undertake that in future I will not permit the above said hawkers and food vendors roaming around the bus stand near my Avin parlor to sell the oil contained foods. I never sold the on Avin products in my parlor in the past and I would not sell those things in the future also.

6. I state that I hereby undertake that I would not sell any non Avin products at any point of time in my Avin parlor No.EC 85 situated at Kumbakonam - Mannarkudi - Adirampattinam Highway near Adirampattinam Bus stand, Pattukottai Taluk, Thanjavur District if I am permitted to run the parlor and on renewal of my Avin license. If there is any violations on my undertaking or if I am found to sell any non Avin products in my parlor the respondents may take action on me in accordance with law."

6. Mr.J.John Rajadurai, learned counsel for the respondents also stated that the petitioner may approach the fourth and fifth respondents herein. I am confident that if the petitioner approaches the fourth and fifth respondents with a representation along with a copy of this particular order, the fourth and fifth respondents would examine the case of the petitioner and they would consider the request of the petitioner and permit the petitioner to put up the Aavin parlour either in the very same place where he was earlier running the business or in any place proximate to the said place.

7. Mr.M.Seenisulthan, learned counsel for the petitioner stated that the petitioner has an existing licence issued by the third respondent and therefore, till the period of such licence, the petitioner had reasonable expectations that his business would not be interfered with and continuation of the business would be recognized by the respondents.

8. Let the petitioner approach the fourth and fifth respondents along with a copy of the existing licence and a copy of this particular order and place a representation. If it is done so, a direction is given to the fourth and fifth respondents to dispose of the representation either by giving permission by accommodating the petitioner to continue to function in the very same place or proximate to the existing place. Such order should be passed within a period of two (2) weeks from the date of receipt of the said representation from the petitioner.



9. With the above observations, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Lm/Nsr

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.

To

- 1.The Principal Secretary,
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Thanjavur District.

+1 CC to M/s.SPL GP (SR-36770[F] dated 01/12/2021)

W.P (MD) No.12893 of 2021
30.11.2021

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