



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2021

CORAM

THE HON'BLE MR. JUSTICE SETHILKUMAR RAMAMOORTHY

W.P. (MD) No.14634 of 2021

and

W.M.P. (MD) .No.11569 of 2021

WEB COPY

Aravindan

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Block Development Officer/Commissioner,
Vallioor Panchayat Union,
Vallioor,
Rathapuram Taluk,
Tirunelveli District.

... Respondents

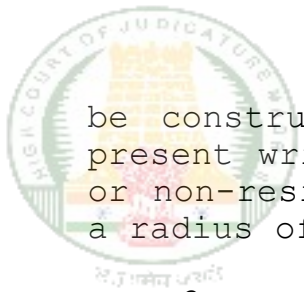
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to forbear them from approving any plan with regard to any building either residential or non-residential proposed to be constructed within a radius of 1 k.m., from petitioner's existing crusher in petitioner's land admeasuring 1½ acres in survey No.1917 at Perunkudi Village, Vallioor Panchayat Union, Rathapuram Taluk, Tirunelveli District in the light of the order made in Tamil Nadu pollution Control Board in B.P.Ms.No.4 dated 02.07.2004 and in the light of order made in W.P.No.26786 of 2019 on the file of the Madras High Court.

For Petitioner : Mr.S.R.Anbarasu
For Respondents : Mr.P.Subbaraj,
Counsel for the State for R1
Mr.R.Ragavendran for R2

O R D E R

The petitioner seeks a direction to the respondents to prevent him from approving any plan for the construction of residential or non-residential buildings within a radius of 1 k.m. from the petitioner's crusher unit at Survey No.1917, Perunkudi Village, Vallioor Panchayat Union, Rathapuram Taluk, Tirunelveli District.

2.The petitioner states that he has established a Blue Metal Jelly Crusher unit in the aforesaid property. As per board proceedings No.4 dated 02.07.2004 of the Tamil Nadu Pollution Control Board (B.P.Ms.No.4), it is stated that no buildings should



be constructed within 500 meters from a stone crusher unit. The present writ petition is filed so as to ensure that no residential or non-residential buildings are permitted to be constructed within a radius of 1 k.m. from the petitioner's crusher unit.

3.Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of the first respondent and Mr.Ragavendran, learned Government Advocate, accepts notice on behalf of the second respondent.

4.B.P.Ms.No.4 restrains the establishment of stone crushing industries within 500 meters from a residential area. In other words, although learned counsel contends that the board proceedings restrain the construction of residential and non-residential buildings within the specified distance from a stone crusher unit, a perusal of the relevant board proceedings indicates that the restriction is on the establishment of a stone crusher unit and not vice versa. Nevertheless, the principle underlying the board proceedings is that a minimum distance should be maintained as between a stone crusher unit and residential buildings in the interest of public health. For purposes of this proceeding, it is not necessary to enter a definitive finding on the merits of the petitioner's request, it is sufficient if the petitioner's representation is disposed of.

5.Subject to the aforesaid observations but without going into the merits of the matter, the second respondent is directed to consider the petitioner's representation dated 05.07.2021 and dispose of the same by a reasoned order after taking into account all relevant considerations, including B.P.Ms.No.4 dated 02.07.2004. Such reasoned order shall be passed within a period of two months from the date of receipt of a copy of this order.

6.W.P.(MD).No.14634 of 2021 is disposed of on these terms without any order as to costs. Consequently, connected W.M.P.(MD).No.11569 of 2021 is closed.

Sd/-

Assistant Registrar (CS II)

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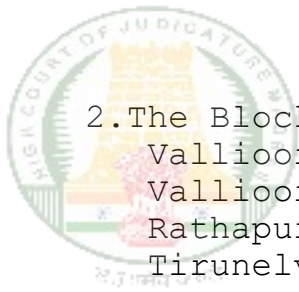
/ /2021

Sub Assistant Registrar(CS)

To

1.The District Collector,
Tirunelveli District,
Tirunelveli.

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



2.The Block Development Officer/Commissioner,
Vallioor Panchayat Union,
Vallioor,
Rathapuram Taluk,
Tirunelveli District.

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+1 CC to M/s.The Special Government Pleader (SR-26760[F] dated
19/08/2021)

W.P. (MD) No.14634 of 2021

and

W.M.P. (MD) .No.11569 of 2021

18.08.2021

RS (27.08.2021) 3P 4C