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W.P. (MD) No.15861 of 2019

Arulmigu Dhandayuthapani Swamy Temple v. The Deputy Director

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.08.2021

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.15861 of 2019

(Through Video Conference)

Arulmigu Dhandayuthapani Swamy Temple,
Palani,
Rep. by its Joint Commissioner/Executive Officer,
Mr.S.Selvaraj.

.. Petitioner

Vs.

1.The Deputy Director,
Industrial Safety and Health,
No.6, Nehruji Nagar,
State Bank Colony,
Dindigul.

2.The State Government of Tamilnadu,
Rep. by its Principal Secretary to Government,
Industries Department,
Secretariat, Fort St.George,
Chennai.

..Respondents

****R2 is impleaded vide Court order dated 09.07.2021 in WMP (MD) .
No.14391/2019 by JNBJ.***

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings dated 28.05.2019 in No.Aa/Pa/Pe.Tho/2019 of the respondent herein and to quash the same.

For Petitioner	: Mr.VR.Shanmuganathan for Mr.AL.Kannan
For Respondents	: Mr.R.Suresh Kumar Government Advocate

ORDER

Prayer sought for herein is for a Writ of Certiorari, calling for the records relating to the impugned proceedings, dated 28.05.2019 in No.Aa/Pa/Pe.Tho/2019 of the respondent herein and to quash the same.

2.The petitioner Temple is running a Panchamirtham production Unit, which is a prasatham being distributed for the devotees come to the



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Temple called Arulmigu Thandayathapani Swami Temple, Palani, Dindigul District, and as against the said unit, which produces the prasatham called Panchamirtham, the first respondent had issued a notice dated 28.05.2019 requiring the petitioner Temple to apply under the provisions of the Factories Act, to get a registration and permission to run the industry, otherwise, the action of non-getting permission or registration from the authorities concerned would be treated as an offence within the meaning of various provisions of the Factories Act, accordingly, action would be taken against the petitioner Management. Felt aggrieved over the same, the said notice dated 28.05.2019 issued by the first respondent has been put under challenge in this writ petition.

3.However during the pendency of the writ petition, the petitioner Temple had applied to seek exemption for the said Panchamirtham production Unit of the petitioner Temple under the purview of the Factories Act by invoking Section 86 of the Factories Act and such kind of representation/application had been filed by the petitioner Temple to the Secretary to Government, Industries Department, on 19.07.2019.

4.Therefore, the learned Counsel, Mr.VR.Shanmuganathan, appearing for the petitioner Temple would submit that, unmindful of the challenge made in this writ petition, if a direction is given by this Court to the second respondent, ie., the Secretary to Government, to consider the application of the petitioner dated 19.07.2019, on merits and in accordance with law and to pass an order with regard to the plea of the petitioner to get exemption by invoking Section 86 of the Factories Act, within the time frame that may be stipulated by this Court, the petitioner would be satisfied.

5.In this context, I have heard Mr.R.Suresh Kumar, learned Government Advocate appearing for the respondents, who would submit that, if the petitioner wants to consider his application dated 19.07.2019 submitted before the second respondent, the same would be considered on merits and in accordance with law, and therefore a copy of the same can be tagged along with the order to be passed by this Court in this regard in this writ petition, and can be sent to the second respondent, who on receipt of the same, within a time that may be stipulated by this Court, would consider and pass orders.

6.I have heard the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

7.In view of the said stand taken by the learned counsel appearing for the petitioner and the response given by the learned Government Advocate appearing for the respondents, this Court feel that without going to the merits of the claim made by the petitioner, insofar as the veracity of the impugned notice dated 28.05.2019, issued by the first respondent, this Court is inclined to dispose of this writ petition with the following order:



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'that there shall be a direction to the second respondent to consider the application made by the petitioner Temple on 19.07.2019, with regard to its plea for getting exemption from the purview of the Factories Act, under Section 86 of the Factories Act, 1948, and decide the same on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.'

8.The petitioner shall forward a copy of this order along with the copy of the application dated 19.07.2019 to the second respondent immediately on receipt of the copy of this order and on such forwarding of the copy of the order as well as the copy of the application dated 19.07.2019, the second respondent shall act upon as indicated above, within the time as stipulated above.

9.With these directions, this writ petition is disposed of. However, there shall be no orders as to costs.

10.Till the disposal of the application dated 19.07.2019, the *status quo* as on today, insofar as the Panchamirtham production Unit of the petitioner Temple shall continue.

Sd/-

Assistant Registrar (WRITS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

PJL

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 Deputy Director,
Industrial Safety and Health,
No.6, Nehruji Nagar,
State Bank Colony,
Dindigul.



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2.The Principal Secretary to Government,
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