



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.17223 of 2021

R.Sunaiselvam

... Petitioner

Vs.

- 1.The District Collector,
Tenkasi, Tenkasi District.
- 2.The District Revenue Officer,
Tenkasi, Tenkasi District.
- 3.The Revenue Divisional Officer,
Sankarankovil, Tenkasi District.
- 4.The Tahsildar,
Sankarankovil Taluk,
Tenkasi District.
- 5.The Inspector of Police,
Sankarankovil Town Police Station,
Tenkasi District.
- 6.The Commissioner,
Sankarankovil Municipality,
Sankarankovil Taluk,
Tenkasi District.
- 7.Vembuli

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 4 to take action to remove the seventh respondent's Night Tiffin Center functioning illegally in the Kalugumalai Main Road abutting the petitioner's Match Factory situated in Door No.90, Quiddemilleth 5th Street, Kalugumalai Road, Sankarankovil, Tenkasi District.

For Petitioner	:	Mr.R.J.Karthick
For R1 to R5	:	Mr.P.Subbaraj
		Counsel for State



ORDER

The petitioner seeks a direction to respondents 1 to 4 to initiate action to remove the Night Tiffin Center set up by the seventh respondent herein.

2.The petitioner states that he runs a Match Work Factory in the property bearing Door No.90, Quidde Milleth 5th Street, Kalugumalai Road, Sankarankovil, Tenkasi District. It is stated that the petitioner has obtained the requisite license under the Arms Act for purposes of running the factory. The petitioner alleges that the seventh respondent has set up a Night Tiffin Centre abutting the factory premises. It is further alleged that the said Night Tiffin Centre is being operated without obtaining the requisite licence under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014. In addition, the petitioner alleges that the Night Tiffin Center makes use of LPG cylinders and, therefore, there is a threat to life and property on account of the proximity to the Match Works Factory. The present writ petition is filed in the said facts and circumstances.

3.Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of respondents 1 to 5. He submits that the petitioner's representation dated 28.12.2020 may be considered and disposed of by respondents 4 and 5.

4.While the petitioner alleges that the seventh respondent does not possess the requisite licence under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014, unless the seventh respondent is provided a reasonable opportunity, no conclusion can be drawn in this regard. Likewise, the petitioner alleges that the seventh respondent is using LPG cylinders. Even assuming that the same is true, it should be examined as to whether the use of LPG gas cylinders truly poses a significant risk as alleged by the petitioner. All these aspects should be examined by respondents 4 and 5 after providing a reasonable opportunity to the petitioner and the seventh respondent herein.

5.Subject to the above observations but without entering any findings on the merits of the matter, the fourth and fifth respondents herein are directed to consider the petitioner's representation dated 28.12.2020 and dispose of the same by a reasoned order after providing a reasonable opportunity to the petitioner and the seventh respondent herein. Such reasoned order shall be issued within a period of two months from the date of receipt of a copy of this order. On account of the fact that no findings have been entered on the merits and because the fourth and fifth respondents have been directed to hear the petitioner and the seventh respondent before taking a decision, the writ petition is disposed of without issuing notice to the seventh respondent.



6.W.P.(MD)No.17223 of 2021 is disposed of on these terms without any order as to costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

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Sub Assistant Registrar(CS)

sjj

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 District Collector,
Tenkasi, Tenkasi District.
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Tenkasi, Tenkasi District.
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- 5.The Inspector of Police,
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Tenkasi District.
- 6.The Commissioner,
Sankarankovil Municipality,
Sankarankovil Taluk,
Tenkasi District.

+1 CC to M/s.SPL.GP (SR-30333[F] dated 27/09/2021)

W.P (MD) No.17223 of 2021
24.09.2021

PS (CO)
KB(05.10.2021) 3P 8C