



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP (MD) No.13439 of 2015

and

MP (MD) No.1 of 2015

WEB COPY

S.Parasuramasubramanian

... Petitioner

Vs.

1.The District Collector,
Collectorate,
Thoothukudi, Thoothukudi District.

2.The Assistant Director of Town Panchayats,
Tirunelveli, Tirunelveli District.

3.The Revenue Divisional Officer,
Kovilpatti, Thoothukudi District.

4.The Tahsildar,
Ettayapuram Taluk,
Ettayapuram, Thoothukudi District.

4.The Executive Engineer,
Selection Grade Town Panchayat,
Ettayapuram, Thoothukudi District.

... Respondents

Prayer : Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.5/2015, dated 24.07.2015 on the file of the fifth respondent and quash the same as illegal.

For Petitioner	:	Mr.T.Lajapathi Roy
For Respondents	:	Mr.M.Rajarajan Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2.The petitioner had obtained building plan approval. Pursuant to the same, the petitioner had attempted to put up the construction. That gave rise to certain law and order issues. It appears that there was an agitation by political parties. Based on the same, the fifth respondent issued the impugned communication directing the petitioner not to proceed with the construction work. This stop work communication is put to challenge in this writ petition.



3.I have no doubt whatsoever in my mind that the impugned order cannot be sustained. This is for more reasons than one. The petitioner was not heard before passing the impugned order. That apart, when the petitioner has obtained building plan approval, he is at liberty to carry on with the construction activities in terms of the building plan approval. So long as the building plan approval is in subsistence, the petitioner's right cannot be restrained. In any event, a statutory authority can only take note of the statutory provisions and act on that basis. He cannot pay heed to any demonstration of political parties. If such a course of action is permitted, we will be surrendering to mobocracy. Then, there will be no rule of law. When the petitioner's rights are at stake, the same will have to be upheld by the courts. We cannot surrender to popular mood. Then the rule of law will take a hit.

4.The impugned communication is set aside. The writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

skm

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,
Collectorate, Thoothukudi, Thoothukudi District.
- 2.The Assistant Director of Town Panchayats,
Tirunelveli, Tirunelveli District.
- 3.The Revenue Divisional Officer,
Kovilpatti, Thoothukudi District.
- 4.The Tahsildar, Ettayapuram Taluk,
Ettayapuram, Thoothukudi District.

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



5.The Executive Engineer,
Selection Grade Town Panchayat,
Ettayapuram, Thoothukudi District.

+1 CC to M/s.SPL GP (SR-4680[F] dated 12/02/2021)

WP (MD) No.13439 of 2015
and
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AP(22/02/2021) 3P 7C