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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.7406 of 2022

L.Jayachand

... Petitioner

Vs.

1. Joint Director of Health Services the Nilgiris,
Upper Bazaar, Ooty,
Tamil Nadu-643 001.

2. Assistant Engineer-PWD,
Building (C&M) Section Medical Works,
Garden Road, Ooty,
Tamil Nadu-643 001

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents to consider the representation of the petitioner dated 12.01.2022 made to the respondents 1 and 2 and grant permission to the petitioner to use the road which is now handed over to the first respondent, situated in the land in Wenlockdown reserved forest, on foot and by vehicle along with his other family members, to access his house located Udhagamandalam Rural Village Survey No.A7/2 subject to any reasonable condition the respondents may impose.

For Petitioner : Ms.S.Varsha

For Respondents : Mr.E.Sundaram,
Government Advocate

O R D E R

Mr.E.Sundaram, learned Government Advocate accepts notice for the respondents and is possession of the necessary facts to enable final disposal of this matter even at the stage of admission. Hence, by consent expressed by both learned counsel, this Writ Petition is disposed finally even at this stage.

2. The petitioner, a resident of Wenlockdown, Ooty, is aggrieved by the action of the respondents, restricting access



to his residence hitherto through 'Wenlockdown Reserved Forest Road'. He claims to hold a permission under proceedings in M.M.No.1262 of 2010 dated 10.02.2010, which has permitted the petitioner access through the reserved forest road till date.

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3. While this is so, when he had sought renewal of the permission for the years commencing 2019-20, by his letter dated 18.10.2019, he has been informed that by virtue of G.O.Ms.No.39 Environment and Forest (FR10) Department, dated 18.06.2010, Forest Land of 10.12 hectares in Wenlockdown Reserved Forest Road has been transferred to the first respondent, the Joint Director of Health Services, Nilgiris for establishment of Government Medical College, at Udhagamandalam in terms of Section 2 of the Forest Conservation Act, 1980.

4. This Government Order has rightly not been questioned and in light of the same, the petitioner cannot claim any entitlement towards use of the path way, though he may have been permitted prior thereto to use the same.

5. Be that as it may, he has made a representation pointing out the fact that he has been using the aforesaid road and has sought permission to continue to use the access road leading to his house. He has also assured the authority that he would comply with any condition that he may be subjected to, if such permission were to be granted.

6. Learned Government Advocate circulates a copy of a communication in ந/க/எண்/256/திவ/2022 dated 25.01.2022 under cover of which R1 has forwarded the petitioner's representation to the Dean of the Udhagamandalam College, which is in the process of being set up, as he would be the proper authority to consider the grant of permission or otherwise.

7. This being the status of the matter, mandamus as sought for by the writ petitioner directing the respondents to consider his representation dated 12.01.2022 cannot be granted but a direction is issued to the Dean of the Udhagamandalam Medical College, to whom the petitioner's representation has been transferred and is now pending, to hear the petitioner and dispose his representation in accordance with law and all applicable rules and regulations within a period of eight (8) weeks from today. This direction shall be conveyed to the Dean of the Medical College through learned Government Advocate, who was appeared in the matter now.



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8. This writ petition is disposed in the above terms. No costs.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

vs/ska

To

1. The Joint Director of Health Services the Nilgiris,
Upper Bazaar, Ooty,
Tamil Nadu-643 001.
2. The Assistant Engineer-PWD,
Building (C&M) Section Medical Works,
Garden Road, Ooty,
Tamil Nadu-643 001
3. The Dean,
Udhagamandalam Medical College,
Ooty.

+1cc to Mr.Naveen Kumar Murthi, Advocate, S.R.No.21999

+1cc to the Government Pleader, S.R.No.22477

W.P.No.7406 of 2022

BS (CO)
SU (08/04/2022)