

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NO.7324 OF 2022

AND

W.M.P.NO.7356 OF 2022

M/s.Mercury Water,
Represented by its Proprietor Mrs.R.Amudha
R.S.No.369/9, No.5, New Street,
Poothurai Village, Vanur Taluk,
Villupuram District - 629 176.

... Petitioner

Vs

1. The District Collector,
Collectorate Office,
Villupuram.
2. Tahsildar,
Vanur Taluk,
Villupuram District.
3. Block Development Officer,
Vanur Panchayat Union,
Vanur Taluk,
Villupuram District.
4. The President
Poothurai Panchayat,
Poothurai,
Vanur Taluk,
Villupuram District - 629 176.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, directing the third respondent to call for the entire records in connection with the impugned proceedings in Na.Ka.No.A2/1616/2020 dated 14.03.2022 of the third respondent proceedings and quash the said impugned proceedings dated 14.03.2022 as it violates the fundamental rights of the petitioner.

For Petitioner : Mr.M.Sriram
For R1 & R2 : Mr.M.Shahjahan
Special Government Pleader
For R3 : Mr.M.S.Premkumar

ORDER

The petitioner has filed this writ petition for issuance of a Certiorarified Mandamus, to direct the third respondent to call for the entire records in connection with the impugned proceedings in Na.Ka.No.A2/1616/2020 dated 14.03.2022 of the third respondent proceedings and quash the said impugned proceedings dated 14.03.2022 as it violates the fundamental rights of the petitioner.

2.The specific case of the petitioner is that the petitioner has obtained No Objection Certificate from the Chief Engineer (SG & SWRDC), PWD, Tharamani, Chennai - 113. No Objection Certificate has been granted purportedly as per G.O.Ms.No.142, Public Works (R2) Department, dated 23.07.2014 and that the said No Objection Certificate has been renewed by the said authority for a period up to 11.06.2022 and that the petitioner also applied renewal of the said No Objection Certificate. During the interregnum, it appears that villagers of the Poothurai Village, Vanur Taluk, Villupuram District, have objected to the tapping of the ground water not only from the petitioner's unit and also from five other water units engaged in manufacturing of distilled water etc. Since there was law and order situation, the third respondent namely Block Development Officer, Vanur Panchayat Union, Vanur Taluk, Villupuram District, has issued the impugned proceedings dated 14.03.2022 and locked the said factory of the petitioner until further orders.

3.Learned counsel for the petitioner submitted that all the other units have been de-sealed. It is therefore submitted that the action of the third respondent is arbitrary and therefore, liable to be interfered. That apart, it is submitted that the petitioner has also obtained permission for transporting water for distilling process from Ground Water Authority and therefore submitted that the petitioner may atleast be permitted to transport water from outside for distilling process in the unit and therefore prayed for desealing of the petitioner's unit.

4.The Writ Petition is contested by the official respondents namely third respondent by stating that the petitioner has not obtained required permission under Section 160 of the Tamil Nadu Panchayat Act, 1994. That apart, it is submitted that on 05.02.2022 at about 10.30 am more than 300 persons from Poothurai Village, Ward Members of Poothurai Village and Poothurai Panchayat President had conducted the protest against the petitioner's unit and five other units to stop illegal absorption of Ground water from their village. It is submitted that the peace meeting was conducted on 10.02.2022 headed by the Tahsildar, Vanur Taluk between the petitioner and the people of Poothurai Village and the resolutions were adopted in the peace meeting stating that without prior permission of the Block Development Officer, the permission has been granted to the petitioner and five others and therefore, the petitioner and five others were directed to submit the following documents :

- (a) Plan approval of DTCP/Counsel of Vanur Panchayat Union/Counsel of Poothurai Panchayat.
- (b) Permission from the Chief Engineer State Ground Water and Surface Water Resources.
- (c) Sanction letter of Tamil Nadu Industrial Investment Corporation Limited or Singe Window Committee.
- (d) Licence given by the Counsel of Vanur Panchayat Union.
- (e) Ground Water Inspection report from Engineer of PWD.
- (f) GST Data, PAN, TAN and Aadhar Card.
- (g) Copy of the Receipt of Tax to Panchayats.
- (h) Details of fee paid to Government for Electricity Motor and HP.
- (i) Copy of annual renewal of license from Vanur Panchayat Union.

Therefore, he submits that the request of the petitioner cannot be considered as the petitioner has not obtained permission from the authority under Section 160 of the Tamil Nadu Panchayat Act, 1994. Therefore, this Writ Petition is liable to be dismissed.

5. Considered the arguments of the learned counsel for the petitioner and the third respondent. The Government of Tamilnadu has issued G.O.Ms.No.142, Public Works (R2) Department dated 23.07.2014. The aforesaid Government Order prescribes guidelines for management of the ground water and the authorities are empowered to issue No Objection Certificate for tapping / extracting the ground water, Tamilnadu. As an industry engaged in extraction of ground water, the petitioner is required to comply and follow the requirements as per G.O.Ms.No.142, Public Works (R2) Department dated 23.07.2014. The petitioner is required to submit the following:

- 1) Attested copy of registered land ownership document in the name of the applicant (or) lease agreement in the name of the applicant.
- 2) The latest Encumbrance Certificate showing the name of the applicant for ascertaining the ownership or lease of the area.
- 3) Field Measurement Book Sketch.
- 4) No to scale topo sketch showing the location of wells and the industry.
- 5) Chitta and Adangal copy.
- 6) Copy of Electricity Board Card.
- 7) The distance between the well proposed for groundwater extraction and nearest wells and the depth of the wells to be certified by the Revenue Inspector concerned.
- 8) The distance between the well proposed for ground water extraction and nearest surface water body such as tank, canal, stream, river etc. to be certified by the Revenue Inspector concerned.
- 9) The distance between the well proposed for ground water extraction and the bank of Palar River (Palar Basin Rules) to be certified by the Revenue Inspector concerned.
- 10) "No Objection Certificate" from the Village Panchayat concerned for the proposed quantity of ground water extraction and transportation of groundwater, if any, (The application form and annexures are notified in the website of the Department and Government) along with the Service Charges as prescribed by the Government then and there.

Point No. 10 makes clear that No Objection Certificate from the Village Panchayat concerned is mandatory before No Objection Certificate can be granted by the PWD. The facts on record seems to indicate that the petitioner has not submitted No Objection Certificate from the Village Panchayat along with the application in terms of G.O.Ms.No.142, Public Works (R2) Department dated 23.07.2014. Section 160 of the Tamil Nadu Panchayat Act, 1994, also stipulates that no person shall, without permission of the Panchayat Union Council in Panchayat villages and except in accordance with the conditions specified in such permission,- (a) construct or establish any factory, workshop or workplace in which it is proposed to employ steam power, water power or other mechanical power or electrical power, or (b) install in any premises any machinery or manufacturing plant driven by any power as aforesaid, not being machinery or manufacturing plant exempted by the rules. Thus no objection was granted to the petitioner to renew it from time to time in contravention in G.O.Ms.No.142, Public Works (R2) Department dated 23.07.2014, section 160 of the Tamil Nadu Panchayat Act, 1994. However, facts on record also indicates that the Water Resource Department has concluded that the Poothurai Village,

Vanur Taluk, Villupuram District, is a safe zone and therefore, water can be extracted from the ground in the said village. When a statute prescribes a particular thing to be done in a particular manner, the same shall not be done in any other manner than prescribed under the law as held by Hon'ble Supreme Court in AIR 1964 SC 358 (State of Uttar Pradesh V. Singhara Singh which has been followed by the Hon'ble Supreme Court repeatedly.

6. Therefore, I direct the fourth respondent to consider the petitioner's application under Section 160 of the Act dated 22.01.2022 as expeditiously as possible. The renewal of "No Objection Certificate" to the petitioner will be subject to the petitioner getting No Objection Certificate from the fourth respondent. This exercise shall be carried out by the fourth respondent within a period of four weeks from the date of receipt of copy of this order. Further renewal of "No Objection Certificate" under G.O.Ms.No.142, Public Works (R2) Department dated 23.07.2014, shall be given to the petitioner for commencing the unit only after the "No Objection" is obtained under section 160 of the Tamil Nadu Panchayat Act, 1994. Since an expert like the Water Resource Department would have conducted a survey of the land in Poothurai Vaillage, Vannur Taluk, Villupuram District, and has concluded it as a safe zone, it is for the third respondent to get the help of the law enforcing authority for ensuring there is no impediment for the units to carry on their business. Pending permission, the petitioner's unit shall be desealed for the maintenance of filters alone. It is made clear that there shall be no tapping or removal of water from the petitioner unit pending approval from the fourth respondent and renewal of the No Objection Certificate in favour of the petitioner in terms of G.O.Ms.No.142, Public Works (R2) Department dated 23.07.2014. This exercise shall be carried out by the respondents as expeditiously as possible within a period of four weeks.

7. This Writ Petition stands disposed of in terms of the above observation. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

mtl

To

1. The District Collector,
Collectorate Office,
Villupuram.
2. The Tahsildar,
Vanur Taluk,
Villupuram District.
3. The Block Development Officer,
Vanur Panchayat Union,
Vanur Taluk,
Villupuram District.
4. The President
Poothurai Panchayat,
Poothurai,
Vanur Taluk,
Villupuram District - 629 176.

+1cc to Mr.M.Sriram, Advocate, S.R.No.41616

+1cc to the Government Pleader, S.R.No.42318

W.P.No.7324 of 2022
and W.M.P.No.7356 of 2022

SKM(CO)
RLP(11/07/2022)