



W.P.No.11189 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12/12/2022

C O R A M

THE HONOURABLE Mr.JUSTICE N. SATHISH KUMAR

Writ Petition No.11189 of 2021

a n d

W.M.P.No.11836 of 2021

P.K.Balasubramanian

...

Petitioner

Vs

1. The President
Akkaraichengapali Panchayat
Annur.

2. The District Environmental Engineer
Tamil Nadu Pollution Control Board
Coimbatore North.

...

Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India
praying for the issuance of a writ of certiorari to call for the records of the first
respondent dated 15/2/2021 and quash the same as illegal.

For Petitioner ... Ms.Ananda Gomathy Murugesan

For respondents ... Mr.M.Elumalai
for R.1
Mrs.Shanmugavalli Sekar
for R.2

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ORDER

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This writ petition has been filed to quash the order, dated 15/2/2021, passed by the first respondent.

2. The case of the petitioner is that the petitioner had purchased 2.88 acres of land at Akkaraichengapali Village, Annur Taluk. To set up a crusher unit to manufacture M-sand and P-sand, the petitioner had sent a representation, dated 15/6/2021, to the Tahsildar, Annur, seeking for No Objection Certificate. Vide, orders, dated 23/6/2020 and 25/6/2020, the Tahsildar of Annur Taluk and the President of Akkaraichengapali Panchayat, respectively, had issued No Objection Certificate.

3. When the matter stood thus, all of a sudden Panchayat had passed a Resolution, dated 15/2/2021, cancelling the No Objection certificate granted by the first respondent for commencing the crusher unit, as the public had objected and the communication was sent to the petitioner, vide impugned order, dated 19/4/2021. Hence, the petitioner had come forward with the instant writ petition praying for the relief, as stated therein.



4. Heard M/s.Ananda Gomathy Murugesan, Mr.M.Elumalai, learned counsel for the first respondent and Mrs.Shanmugavalli Sekar, learned counsel for the second respondent.

5. Learned counsel appearing for the petitioner submitted that for the purpose of commissioning a sand crusher unit, the petitioner had obtained No Objection Certificate from the Panchayat President and thereafter, obtained consent order from the Tamil Nadu Pollution Control Board. When he was about to commence the crusher unit, impugned order has been passed.

6. Learned counsel appearing for the first respondent submitted that though No Objection Certificate has been issued by the Panchayat, based on the plea raised by the local residents, Panchayat had passed the impugned order. He further submitted that as against the said Resolution, the petitioner shall apply to the Collector, as per Section 202 of the Tamil Nadu Panchayat Act, 1994. Hence according to him, writ petition is not maintainable.

7. On a careful perusal of the materials available on record, it is not in



dispute that the petitioner was granted permission to run the crusher unit.

Tahsildar, by Proceedings, dated 23/6/2020 has given No Objection Certificate. Based on the same, the first respondent has also issued No Objection certificate, on 25/6/2020. When the Pollution Control Board has also granted permission, all of a sudden, Panchayat has unilaterally, passed a Resolution, cancelling the No Objection Certificate. It is to be noted that no opportunity whatsoever was given to the petitioner before passing such Resolution and it is a clear case of violation of principles of natural justice.

8. When there was no environmental issues, merely based on the representation of the people, first respondent had passed the Resolution depriving the right of the petitioner, that too without giving an opportunity to the petitioner.

9. In such a view of the matter, this Court is of the considered view that as per Section 202 of the Tamil Nadu Panchayat Act, the petitioner shall file a representation before the District Collector, within a period of one month from today. On such representation being made, the District Collector shall consider the representation of the petitioner, in the light of the observation made in paragraphs 7 and 8 of the order and pass orders, within a



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period of three months, thereafter.

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10. With the above direction, this writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

12/12/2022

Index : Yes / No

Internet: Yes

Speaking/non speaking order

mvs.

N. SATHISH KUMAR, J

mvs.



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