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W.P. No. 28214 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2022

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 28214 of 2022

Vaishnavi Jaya

... Petitioner

-VS-

1. The Commissioner
The Greater Chennai Corporation
Chennai – 600 003.
2. Zonal Executive Engineer
Zone – VII (Ambattur)
Thiruvallur High Road
Opposite to Dunlop
Chennai – 600 053.
3. The Chennai Metropolitan Development Authority (CMDA)
No.1, Gandhi Irwin Road
Egmore, Chennai – 600 008.
4. Tamil Nadu Pollution Control Board
No.76, Mount Salai, Guindy
Chennai – 600 032.
5. M/s. YESJR Distributors Pvt. Ltd.
Door No.202, Raja Rajacholan Street
Kumaran Nagar, Padi

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the First and Second Respondents to dispose of the representation dated 02.08.2022, which was sent



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by the Petitioner pursuant to the complaints dated 25.07.2021 and 11.11.2021 lodged before the Third and Fourth Respondents, which were forwarded to the First and Second Respondents on 09.08.2021 and 19.11.2021 respectively, within the time period fixed by the Court.

For Petitioner : Mr. Praveen S Kumaar

For Respondents : Mrs. P.T.Ramadevi (For R1 and R2)

Mr. C.Manoharan (For R3)

Mr. G.Thalai Mutharasu (For R5)

R4 - No ready in notice

ORDER

Heard Praveen S Kumaar, Learned Counsel for the Petitioner, Mrs. P.T.Ramadevi, Learned Counsel for the First and Second Respondents, Mr. C.Manoharan, Learned Counsel for the Third Respondent and Mr. G.Thalai Mutharasu, Learned Counsel for the Fifth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed for directing the First and Second Respondents to dispose of the representation dated 02.08.2022, which had been sent by the Petitioner pursuant to the complaints dated 25.07.2021 and



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11.11.2021 lodged before the Third and Fourth Respondents, which were forwarded to the First and Second Respondents on 09.08.2021 and 19.11.2021 respectively, within the time limit that may be fixed by the Court.

3. In furtherance to the order passed on 26.10.2022 by the Court, the First and Second Respondents have filed Counter-Affidavit dated 25.11.2022 in which it has been stated as follows:-

“8. I respectfully submit that immediate actions have been taken by directing the officials of Revenue Department, Greater Chennai Corporation and the Health Department, Greater Chennai Corporation to inspect the building in question and to take necessary action against the Fifth Respondent herein as per the provisions of Chennai City Municipal Corporation Act, 1919.

9. I respectfully submit that at the time of inspection it was also found that the Fifth Respondent herein is running the trade without obtaining valid trade license from the Revenue Department, Greater Chennai Corporation. Hence a Notice dated 26.10.2022 under Section 287 of the Chennai City Municipal Corporation Act, 1919 was issued to the Fifth Respondent herein directing him to obtain license from the



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Revenue Department, Greater Chennai Corporation within a period of seven days failing which further action will be taken as per Section 379-A of Chennai City Municipal Corporation Act, 1919.

10. I respectfully submit that subsequently the Fifth Respondent has made an application for issuing trade license dated 08.11.2022 before the office of the Greater Chennai Corporation.

11. I respectfully submit that the Sanitary Inspector, Division – 88, and the Zonal Health Officer, Zone-VII, Greater Chennai Corporation, have inspected the building in question and found that the Fifth Respondent herein was running the trade in an unhygienic manner. Hence the Zonal Health Officer, Zone-VII, Greater Chennai Corporation has issued a Notice dated 21.11.2022 directing the Fifth Respondent to carry out the improvements as follows:-

(i) Generator exhaust pipe to be kept above 6 feet than the nearest building.

(ii) Fire License to be provided from concerned department.



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(iii) *To white wash the building and to maintain the building in a clean condition.*

(iv) *Terrace to be kept neat and clean.*

(v) *To clean/improve the toilets in that building for workers.*

12. *I respectfully submit that on receipt of the above notice the Fifth Respondent herein has informed that he is running the business after obtaining license from the Government vide Form – 20B License dated 25.06.2021 vide TN-05-20B-00553 issued under Drugs and Cosmetic Act, 1940 and Form – 21B License issued vide TN-05-21B-00553 issued under Drugs and Cosmetic Act, 1940. Further, the Fifth Respondent has also informed that he has also obtained license valid up to 30.07.2026 from the Food Safety and Standards Authority of India (FSSAI) vide Registration No. 22421524000316.*

13. *I respectfully submit that there is no industrial activity in the building which creates noise pollution. Further, the Fifth Respondent herein has been using the building in question for storing and distributing and medicines which comes under the essential service and the generator used by him is to keep the medicines in cool temperature whenever there was power*



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14. *I respectfully submit that since the Fifth Respondent herein is carrying on the business after getting valid License from the Government of Tamilnadu under Drugs and Cosmetic Act, the Greater Chennai Corporation is not a competent authority to take action against the same and the Petitioner has to approach the Government of Tamilnadu for further relief.*

15. *I respectfully submit that since the Fifth Respondent herein has erected the generator in the ground floor and action has been taken against the building in question by issuing a calling for approved plan dated 23.11.2022 under Section 56 and 57 read with Section 85 of Tamil Nadu Town and Country Planning Act, 1971 to Mr. P.Maruthi the owner of the building at No.202, Raja Rajacholan Street, Kumaran Nagar, Padi, Chennai – 600 050, directing him to submit the approved plan within a period of 15 days.*

16. *I respectfully submit that further action against the building will be taken as per the provisions of Tamil Nadu Town and Country Planning Act, 1971.”*

In view of the aforesaid action taken by the First and Second Respondents,



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nothing remains for further consideration in the matter, but it would not preclude

the Petitioner, if she has any other grievance, to work out her remedies before the proper forum in the manner recognized by law.

4. In fine, the Writ Petition is disposed with the aforesaid observations. No costs.

28.11.2022

Maya

Index: Yes/No

Note: Issue order copy by 05.01.2023.

To

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P.D. AUDIKESAVALU, J.

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