



W.P.No.35178 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

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THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.No.35178 of 2019

and

W.M.P.No.35964 of 2019

C.Anbalagan

... Petitioner

Vs

1.The Sub-Collector Harur,
Harur Taluk,
Dharmapuri District – 636 903.

2.Dr.V.Govindaraj

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the first respondent vide order Na.Ka.No.3638/2019/A4 dated 05.11.2019 and quash the same as illegal.

For Petitioner : Mr.P.Muthusamy

For Respondents :

For R1 : Mr.N.Naveen Kumar
Government Advocate

For R2 : Mr.V.Nicholas



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ORDER

The petitioner has challenged the impugned order dated 05.11.2019 passed by the first respondent the Sub Collector, Harur, Dharmapuri District based on the complaint given by the second respondent on 31.10.2019.

2. By the impugned order dated 05.11.2019, the petitioner has been restrained from carrying on his hotel business.

3. The case of the second respondent is that the petitioner is using wood substances to cook food in his hotel, resulting Air pollution and the excess emission is also causing difficulties for him and his patients as the second respondent is running Clinic in the same vicinity.

4. The learned counsel for the petitioner would submit that the impugned order has been passed without notice to the petitioner. It is submitted that there is gross violation of Principles of Natural Justice inasmuch as the complaint of the second respondent is dated 31.10.2019 and the order has been communicated five days later, as if the petitioner



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was called for enquiry on 02.11.2019. He would further submit that the petitioner has requisite permission under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 as amended in 1988 (Central Act, 6 of 1974) and under the provisions of the Air (Prevention and Control of Pollution) Act, 1981 as amended in the year 1987. It is further submitted that these permissions have been granted by the Tamil Nadu Pollution Control Board and are valid and subsisting and therefore the impugned order passed by the first respondent is liable to be interfered with.

5. This writ petition is opposed by the learned counsel for the second respondent and it is stated that the impugned order is well-reasoned and requires no interference and indeed the petitioner was called for enquiry on 02.11.2019 and it is pursuant to the enquiry, the impugned order has been passed by the first respondent.



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6. I have considered the arguments advanced by the learned counsel for the petitioner, the learned Government Advocate for the first respondent and the learned counsel for the second respondent.

7. Prima facie, it appears that there is a personal enmity between the petitioner and the second respondent. The petitioner is running a hotel in the Name and Style of Om Shri Saravanas, whereas the second respondent is Physician, who appears to be running a Clinic in the same vicinity.

8. Whether, the petitioner's hotel emitting noxious black smoke on account of burning of wood substances cannot be decided by the first respondent or the second respondent based on the allegations of the second respondent. If at all, the first respondent wanted to pass the impugned order, he should have call the petitioner for a hearing.

9. Considering the above, I am inclined to quash the impugned order and remit the case back to the first respondent to pass a fresh order on merits and in accordance with law, within a period of four weeks from



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the date of receipt of a copy of this order.

10. Needless to state, before passing such order, the first respondent shall consider the petitioner's permission/consent letter granted by the Tamil Nadu Pollution Control Board under the respective enactments stated above and also call the petitioner for a hearing.

11. In case the petitioner is still aggrieved by the aforesaid consent period, it is open for the second respondent to take steps to cancel the same in accordance with law.

12. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

08.11.2022

Index : Yes/No
Speaking/Non-Speaking Order

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C.SARAVANAN, J.

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To

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Harur Taluk,
Dharmapuri District – 636 903.

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