



W.P(MD)No.4870 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.09.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.4870 of 2013

and

M.P(MD)No.2 of 2013

A1596, Peraiyur Primary Agricultural
Co-operative Credit Society Limited,
Peraiyur Post and Taluk, Madurai District,
Represented by its Secretary,
Peraiyur, Madurai District.

... Petitioner

Vs.

1.The Executive Officer,
Peraiyur Town Panchayat,
Madurai District.

2.The Town Panchayat Council,
Peraiyur Town Panchayat,
Peraiyur, Madurai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the impugned order in Na.Ka.No.64/2012, dated 10.10.2012, on the file of the first respondent and quash the same and further directing the respondents to



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grant license to run private cart stand and pass such further or other orders as this Court.

For Petitioner : M/s.S.Selva Aditya
for Mr.G.Prabhu Rajadurai

For Respondents : M/s.A.Baskaran
Additional Government Pleader

ORDER

The present Writ Petition has been filed challenging an order passed by the first respondent herein, under which, the request of the petitioner for grant of license for running a private cart-stand was rejected.

2. A perusal of the impugned order indicates that the said request for license has been rejected, on the ground that already the first respondent Town Panchayat is running a cart-stand and hence, any license to the writ petitioner for running a private cart-stand would result in financial loss to the first respondent Town Panchayat. The impugned order has also pointed out that the petitioner has not obtained building plan approval for the tin sheds that are being laid for the private cart-



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stand.

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3. As per Section 270-E of the Tamil Nadu District Municipalities Act, 1920, the first respondent is the licensing authority. The said license can be refused only for the reasons enumerated under the said Section. The licensing authority himself is running a cart-stand and any private cart-stand would result in financial loss to the Town Panchayat, could not be a legally acceptable reason for rejecting the request for license made by the writ petitioner.

4. The learned Counsel for the petitioner brought to the notice of the Court, a judgment made in W.P(MD)Nos.21921 and 6295 of 2019, dated 02.08.2019, under which, this Court has held that the Municipality cannot be allowed to have a monopoly and denial of license would be only an arbitrary exercise of power. Based on similar facts and circumstances of the present case, the order impugned in the writ petition is set aside. The first respondent herein is directed to issue license to the writ petitioner for running a private cart-stand on payment of necessary licence fee. However, the petitioner shall not start operating the said private cart-stand, without obtaining building plan permission from the



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first respondent.

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5. With the above said observations, the writ petition stands allowed. The application for building plan approval pending with the first respondent shall be disposed of within a period of twelve (12) weeks from the date of receipt of a copy of this order on fulfillment of the conditions imposed under the statute. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

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Index : Yes / No
Internet : Yes / No
btr

To

1.The Executive Officer,
Peraiyur Town Panchayat,
Madurai District.

2.The Town Panchayat Council,
Peraiyur Town Panchayat,
Peraiyur, Madurai District.



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R.VIJAYAKUMAR, J.

btr

Order made in
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