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W.P.(MD)NO.9585 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9585 of 2022 &
W.M.P.(MD)No.6888 of 2022

Subanitha

... Petitioner

Vs.

1. The District Collector,
Pudukottai,
Pudukottai District.

2. The Divisional Engineer(Highways),
Construction and Maintenance Office,
Pudukottai,
Pudukottai District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the second respondent in Ka.No.2253/2021/இ.வ.அ.2/dated 22.04.2022 and quash the same.

For Petitioner : Mr.A.Shajahan

For Respondents: Mr.K.Balasubramani,
Special Government Pleader.

* * *

**ORDER**

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Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the respondents.

2. The writ petitioner was granted franchise by Aavin. To set up her parlour at the petition mentioned site, the petitioner moved the second respondent and obtained no objection certificate. Thereafter, the petitioner invested substantial sum of money and constructed a temporary structure. The business commenced in the month of April 2022. At this stage, based on the complaint received from the Principal of Maamannar College, the permission given to the petitioner was cancelled. Questioning the same, the present writ petition has been filed.

3. It is not as if the petitioner had committed encroachment. The petitioner had put up her parlour only after getting proper permission from the second respondent. Based on the permission given by the second respondent, the petitioner had made a substantial investment. She had also



commenced the business in the month of April 2022. Based on the complaint of the college Principal, the impugned order came to be passed. When the second respondent originally granted permission, he ought to have taken into account all the relevant aspects. After the petitioner proceeded to alter her position, the second respondent could not have cancelled the permission earlier granted. The principle of estoppel would clearly come into play. The site in question belongs only to Highways. It does not belong to the college in question. It is seen from the complaint of the college Principal that he has certain misgivings on account of the undesirable activities which may affect the interests of the students. This complaint definitely does not hold water as regards the petition mentioned activities. The petitioner is after all engaged in vending Aavin milk and milk products belonging to Aavin.

4. I fail to understand how this will affect the interests of the students. The parlour has been put up outside the college campus. The college has been duly compounded also. There is no entrance or window facing the college. Therefore, the second respondent erred in acting on the



complaint of the college Principal. The petitioner is entitled to carry on business and the same is protected under Article 19(1)(g) of the Constitution of India. It cannot be interfered with in an unreasonable manner. The impugned order is therefore quashed. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

29.07.2022

Index : Yes / No
Internet : Yes/ No

PMU

Note : Issue order copy on 02.08.2022.

To:

1. The District Collector,
Pudukottai,
Pudukottai District.
2. The Divisional Engineer(Highways),
Construction and Maintenance Office,
Pudukottai,
Pudukottai District.



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G.R.SWAMINATHAN,J.

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