



W.P.(MD)No.9700 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.07.2022

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.9700 of 2022

M/s.Shree Varaaha Packages,
Partnership Firm,
represented by its Partner,
Gandhi Nimmi.

... Petitioner

Vs.

- 1.The District Collector,
Madurai District, Madurai.
- 2.The Superintendent of Police,
Madurai District, Madurai.
- 3.The Assistant Director,
Panchayat Union Office,
Vadipatti, Madurai District.
- 4.The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
SIDCO Industrial Estate,
Kappalur, Thirumangalam Taluk,
Madurai – 625 008.
- 5.The President,
Semminipatti Panchayat,
Vadipatti Taluk,
Madurai District.



W.P.(MD)No.9700 of 2022

6.P.Vijayan
7.R.Chandrasekaran
8.R.Dhandapani

... Respondents

(R6 to R8 are impleaded, vide Court order, dated 26.05.2022, in W.M.P.(MD) No.7699 of 2022 in W.P.(MD)No.9700 of 2022)

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the 3rd and 5th respondents to withdraw the Resolution No.36, dated 29.06.2021, passed by the 5th respondent and issue necessary orders permitting to go ahead with the construction of the factory building based on the direction issued by the 1st respondent, vide proceedings Na.Ka.No.1481/2021/A4, dated 11.04.2022.

For Petitioner :Mr.R.Murugan
For R1 to R3 :Mr.T.Amjad Khan
Government Advocate (Civil side)
For R4 : Mrs.Vijayakumari Natarajan
For R5 : Mrs.P.Jessy Jeeva Priya
For R6 to R8 : Mr.A.Hajamohideen



W.P.(MD)No.9700 of 2022

ORDER

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This Writ Petition is filed for issuance of a Writ of Mandamus to direct the third and fifth respondents to withdraw the Resolution No.36, dated 29.06.2021, passed by the fifth respondent and issue necessary orders permitting to go ahead with the construction of the factory building based on the direction issued by the first respondent, vide proceedings Na.Ka.No.1481/2021/A4, dated 11.04.2022.

2.The petitioner is a partner of the firm viz., M/s.Shree Varaaha Packages and he has constructed a building bearing Door No.2/238, at Katchakatti Village, Semminipatti Panchayat, Vadipatti Taluk, Madurai District. The petitioner has established the partnership business to manufacture of corrugated boxes, corrugated paper board and other related business pertaining to packing goods which are entertained for marketing and sale.



W.P.(MD)No.9700 of 2022

WEB COPY

3.It is the specific case of the petitioner that the fourth respondent viz., The District Environment Engineer, by proceeding dated 02.08.2016 in B.P.No.06, has granted consent to establish the industry. It is also submitted that the petitioner has obtained permission from the fifth respondent. The petitioner has obtained license, electricity service connection and obtained required approval or permission from other Statutory Authorities. It is the case of the petitioner that the fifth respondent has earlier granted planning approval to the petitioner. Whereas, by the impugned communication, the petitioner was informed that vide a resolution of the Council, dated 29.06.2021, the planning approval, which was granted earlier is cancelled and therefore, the petitioner shall not proceed with the construction.

4.This Court is unable to sustain the impugned order for the simple reason that the fifth respondent has not referred to any statutory provision by which the building plan approval



W.P.(MD)No.9700 of 2022

granted to the petitioner is vitiated. If there is objection from public to grant building plan approval based on any statutory violation, that may be an issue that will be considered by the local body as per law. The local body may consider the views of public in cases where it is required in the interest of public under the relevant statute. The local body is bound to act only in accordance with law and not otherwise.

5. Having satisfied the Pollution Control Board and other statutory authorities, the petitioner might have invested a huge amount for establishing an Industry which may also provide employment to the villagers. However, without assigning any reason and without giving opportunity to the petitioner, the impugned order has been passed by the fifth respondent. The petitioner has not furnished with the copy of resolution dated 29.06.2021. The District Collector has also passed an order in favour of the petitioner by giving a direction to the local body not to put any obstruction to the project of the petitioner and to give co-operation to the



W.P.(MD)No.9700 of 2022

petitioner to proceed further with the project. A specific direction was also issued to the fifth respondent to withdraw the impugned order. The District Collector has power to modify the resolution of the local body, if it warrants. The order of the District Collector is not challenged by the local body in the manner known to law.

6. Therefore, this Court is of the view that the impugned order dated 29.06.2021 is liable to be quashed and accordingly, it is quashed. Accordingly, the Writ Petition is allowed. No costs.

[S.S.S.R., J.] [S.S.Y., J.]
12.07.2022

Index : Yes / No

Tmg/Ns

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WEB COPY



W.P.(MD)No.9700 of 2022

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W.P(MD)No.9700 of 2022

12.07.2022