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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 29.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.22781 of 2022
and
W.M.P(MD)Nos.16924 and 16925 of 2022

A.Serma Pandi ..Petitioner

Vs

1.The Commissioner,
Food Safety Department,
5th Floor, 359, Anna Salai,
Chennai – 600 006.

2.The District Collector,
Madurai District,
Madurai.

3.The Designated Officer,
Food Safety Department,
Food Safety Wing,
Madurai.

4.The Food Safety Officer(Code No.577),
Madurai Corporation,
Madurai.

5.The Inspector of Zpolice
Theppakulam Police Station,
Madurai. ..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 pertaining to the impugned order made in R.No. 1514/FSD/2022, dated 30.08.2022 passed by the third respondent and

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to quash the same and consequently to direct the respondents to remove the lock and seal of the Petitioner's Petty Shop and permit the petitioner to carry on the business in the same premises.

For Petitioner :Mr.M.Kaliraj

For Respondents:Mr.A.Kannan
1 to 3

For Respondent-4:Mr.S.Vinayak

For Respondent-5:Mr.B.Thanga Aravindh
Govt.Advocate(Crl.side)

ORDER

The Petitioner has filed this Writ Petition seeking issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order made in R.No.1514/FSD/2022, dated 30.08.2022 passed by the third respondent and to quash the same and consequently to direct the respondents to remove the lock and seal of the Petitioner's Petty Shop and permit the petitioner to carry on the business in the same premises.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.This Court, in the above Writ Petition, by order, dated 16.11.2022, passed the following Order:

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The petitioner is running a petty shop in the name and style of 'Sastha Maligai Shop' situated at Ismailpuram, 6th Street, Munichalai Road, Madurai for the past 25 years. The fifth respondent police registered a case against the petitioner alleging that on a raid on 25.08.2022, it was found that the petitioner was having 34 pockets of prohibited Ganesh Tobacco in his shop. Hence, he was arrested and a case was registered against him in Crime No.435 of 2022 for the offence under Section 24(1) of Cigarette and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 and he was also directed to pay fine. Under the said circumstances, the third respondent herein has issued the order impugned dated 30.08.2022 made in R.No. 1514/FSD/2022 under Section 34(1) of the Food Safety and Standards Act 2006 and on the same day, the petitioner's shop was locked and sealed. Hence, the petitioner is before this Court.

2.The learned counsel appearing for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution. The order impugned in this writ petition is passed without conducting enquiry, seeking any explanation from the petitioner and giving any opportunity to the petitioner.

3.The learned Government Advocate (Crl.side) submitted that the petitioner is involved in three cases.

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4.In view of the above, the petitioner is directed to pay a sum of ***Rs.25,000/-*** *(Rupees Twenty Five Thousand only) on or before* ***29.11.2022*** *to the credit of the* ***District Siddha Medical Officer*** *CCRI PKM [A/c.No.10767823177, IFSC Code:-SBIN0000898, State Bank of India, Periyakulam Branch]. He is also directed not to sell any banned food and Gutka's & Tobacco items in future. He is further directed to fix a board in his shop stating that "as per the undertaking and the order of the Madurai Bench of Madras High Court, there will be no sale of Tobacco items here".*

5.Post the matter on ***29.11.2022*** *for filing compliance affidavit.*

4.In compliance of the above said order, the Petitioner deposits a sum of Rs.25,000/- as ordered above and also placed a flex infront of the shop stating that ''there will be no sale of tobacco items''.

5.In view of the above circumstances,the respondents are directed to remove the lock and seal of the Petitioner's shop within a period of two weeks from the date of receipt of a copy of this order. It is made clear that if the Petitioner again indulge in the such kind of business once again, the respondents are directed to close the Petitioner's shop permanently and cancel the licence granted to the Petitioner's shop.

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6.With the above direction and observation, the Writ Petition stands disposed of. No costs.Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes/No

Internet:Yes/No

vsn

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V.BHAVANI SUBBAROYAN,J
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ORDER MADE IN

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