



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2022

CORAM

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

WP(MD) Nos.19633 of 2017 & 13606 of 2019

and

WMP(MD)No.10154 & 10155 of 2019

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WP(MD) Nos.19633 of 2017

J.George

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District at Nagercoil,
Nagercoil.

2.The Block Development Officer,
Melpuram Panchayat Union,
Melpuram, Kanyakumari District.

3.The Executive Officer,
Vanniyoor Panchayat,
Mecode, Kaliakkavilai Post,
Kanyakumari District.

4.H.Sathiyanesan

... Respondents

(4th respondent impleaded as respondent vide order, dated 24.01.2022, passed in WMP(MD)No.5180 of 2018 in WP(MD)No.19633 of 2017 by GJJ)

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus, directing the respondents to grant appropriate permission to the petitioner to run retail broiler chicken shop by name 'Manna Brolier Chicken Stall' comprised in Survey No.197/2A in Vanniyoor Village, Vilavancode Taluk, Kanyakumari District, by considering the representation of the petitioner dated 03.10.2017 followed by the detailed representation of the petitioner dated 14.10.2017, within a time frame as may be fixed by this Court, by allowing the present writ petition.

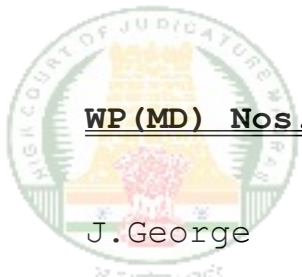
For Petitioner

: Mr.G.Aravinthan

For R1 to R3

: Mr.A.Thiruvadi Kumar

Additional Public Prosecutor



WP (MD) Nos.13606 of 2019

J.George

... Petitioner

Vs.

1.The Sub Collector,
Padmanapapuram,
Kanyakumari District.

2.The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, to call for the records with regard to the impugned order passed by the 1st respondent dated 17.05.2019 and set aside the same as illegal.

Petitioner	: Mr.S.R.Anbarasu
For Respondents	: Mr.A.Thiruvadi Kumar Additional Public Prosecutor

COMMON ORDER

The WP(MD) Nos.19633 of 2017 is filed to direct the respondents to grant appropriate permission to the petitioner to run retail broiler chicken shop by name 'Manna Brolier Chicken Stall' comprised in Survey No.197/2A in Vanniyoor Village, Vilavancode Taluk, Kanyakumari District, by considering the representation of the petitioner dated 03.10.2017 followed by the detailed representation of the petitioner dated 14.10.2017, within a time frame as may be fixed by this Court, by allowing the present writ petition.

2.The WP(MD) Nos.13606 of 2019 is filed to quash the impugned order passed by the 1st respondent, dated 17.05.2019.

3.There are two Writ Petitions filed by the same petitioner. One for Mandamus and another for Certiorari.

4.The Writ petitions arise on the facts that the petitioner is running a retail broiler chicken shop situated in S.No.197/2A in Vanniyur Village, Vilavancode Taluk, Kanyakumari District, adjacent to his residence without causing any hazard to the public. A formal permission was sought from the second respondent and necessary fees also paid by him. While being so, a notice was received from the second respondent addressed to one Shaju, who is the erstwhile employee of the petitioner, directing him to remove the Chicken Shop within a period of 30 days and a notice was issued based on the complaint lodged by one Vanniyoor Babu, who is the political rival



to the petitioner. Hence, WP(MD) Nos.19633 of 2017 is filed for considering the petitioner's representation for granting appropriate permission.

5. Pending Writ Petition, the first respondent has passed notice to the petitioner herein, dated 17.05.2019, restraining the petitioner from carrying on the poultry business in the said survey number, till the disposal of the case. Being aggrieved by the said notice, the Writ Petition in WP(MD)No.13606 of 2019 has been filed seeking the Writ of Certiorari to quash the above said notice.

6. In the above said factual ground, one Sathiyanesan has filed a petition in WMP(MD)No.5180 of 2018 in WP(MD)No.13606 of 2019 seeking implead himself as the fourth respondent in the said writ petition. In his affidavit, it is stated that consequence to the public interest litigation filed in WP(MD)No.10795 of 2017, the unauthorised slaughter house located in the petitioner's premises was sought to be closed. At that time, the said slaughter house was run by one Shaju @ Shaji. Thereafter, the respondent has conducted enquiry and sent the notice, dated 17.05.2019, restrain the petitioner from carry on the poultry business from the said premises. The impleaded respondent seeks get himself impleaded in the said Writ Petition and dismiss the writ petition as devoid of merits, since the petitioner running the Chicken Meat Shop without getting proper license and permission and causing hazard to the local people.

7. On perusing the averments made in the impugned order, this Court finds that earlier, this Court has directed the Authorities to find out whether the petitioner herein is running the poultry business in accordance with law after obtaining permission. Therefore, the petitioner has made an application to the Authorities to grant permission. Since the application was not considered, he filed WP(MD)No.19633 of 2017 seeking mandamus. While fact being so, the first respondent has passed an order stating that till the disposal of the above said Writ Petition, the petitioner should not carry on the business, which was challenged in the subsequent Writ Petition in WP(MD)No.13606 of 2019.

8. The version of the impleaded respondent is that the petitioner herein is running the Poultry Farm without obtaining license and without following the necessary hygiene procedure.

9. The right of the petitioner to trade can be restrained only under procedure established under law. If the petitioner satisfies all the statutory requirements for maintaining the hygiene, he is entitled for carry on the business. In this case, this Court finds that by way of the impugned order, the petitioner herein is now prevented from carry on his business and his application to grant permission to run poultry business kept pending without due



10.Hence, this Court is of the view that the representation of the petitioner, shall be taken for consideration by the respondent for granting permission to run his poultry business and if found eligible, same to be granted. The petitioner herein, is permitted to make fresh application with all the requirements and such representation if received, the same shall be disposed of within a period of two months from the date of receipt of the application.

11.Accordingly, with the above direction, WP(MD)No.19673 of 2017 is disposed of. In view of the order passed in WP(MD)No.19673 of 2017, this Court is of the view that the impugned order passed by the first respondent, dated 17.05.2019, is liable to be quashed and accordingly, WP(MD)No.13606 of 2019 is allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

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/ /2022

Sub Assistant Registrar(CS)

dss

To

- 1.The District Collector,
Kanyakumari District at Nagercoil, Nagercoil.
- 2.The Block Development Officer,
Melpuram Panchayat Union,
Melpuram, Kanyakumari District.
- 3.The Executive Officer,
Vanniyoor Panchayat,
Mecode, Kaliakkavilai Post, Kanyakumari District.
- 4.The Sub Collector,
Padmanapuram, Kanyakumari District.
- 5.The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.

WP(MD) Nos.19633 of 2017 & 13606 of 2019 and

WMP(MD)No.10154 & 10155 of 2019

24.01.2022

RD(01.03.2022) 4P 6C