



WEB COPY



W.P.No.1537 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2023

CORAM

THE HON'BLE MR. JUSTICE C. V. KARTHIKEYAN

Writ Petition No.1537 of 2023

and

Writ Miscellaneous Petition Nos.1622 & 1624 of 2023

Ayamu Mohammed Shafi

... Petitioner

Versus

1. The Superintendent,
Coimbatore Market Committee,
Coimbatore Regulated Market,
Karamadai.

2. The Superintendent,
Karamadai Regulated Market,
Karamadai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the notice of the 2nd respondent No.142/2022 dated 03.08.2022 and quash the same and consequently, forbear the respondents from in any manner interfering with the carrying on business by the petitioner in buying and selling garlic in the petitioner business premises at No.12-A, Blue Chill Avenue Road, Mettupalayam,



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Coimbatore 641 301 at No.7/203-1, Ground Floor, Pogalur, Sirumugai,
Coimbatore.

For Petitioner : Mrs.AL.Gandhimathi, Senior Counsel
For Mr.L.Palani Muthu

For Respondents : Mr.S.Ravikumar,
Special Government Pleader

ORDER

The Writ Petition has been filed in the nature of a Writ of Certiorarified Mandamus calling for a records relating to a notice of the 2nd respondent, Superintendent, Karamadai, Regulated Market at Karamadai bearing No.142/2022, dated 03.08.2022 and quash the same and consequently, to restrain the respondents from interfering with the business of the petitioner in buying and selling garlic at No.12-A Blue Chill Avenue Road, Mettupalayam at Coimbatore and also at No.7/203-1, Ground Floor, Pogalur, Sirumugai at Coimbatore.

2. The petitioner herein, Ayamu Mohammed Shafi is a Proprietor of M/s. Baby Garlic. He has been carrying on business in buying and selling garlic at the aforementioned two addresses.



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3. In the affidavit filed, he had stated that he is not doing business in any other market area and therefore, he is not liable to register himself under the provisions of the Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987 or to pay any fees for the agricultural produce which is bought and sold by him.

4. The respondents had issued a notice bearing No.142/2022, dated 03.08.2022 stating that, in exercise of powers under Section 9 (1) (d) of the aforementioned Act, the Government had notified the agricultural produce in the said letter as including garlic as a notified agricultural produce and therefore, had stated that buying and selling of garlic can be done only after getting a licence from the Market Committee.

5. It had been stated that the respondents had been interfering with the business of the petitioner herein. Complaining that the petitioner's right to carry on business guaranteed under Article 19 (i) (g) of the Constitution of India is interfered with, the present Writ Petition has been filed.



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6. Heard the learned Senior Counsel appearing on behalf of the petitioner and also the learned Special Government Pleader appearing on behalf of the respondents.

7. The respondents had placed reliance on G.O.Ms.No.84, Agricultural and Farmers Welfare Department, dated 23.04.2022 as the basis for issuing notice dated 03.08.2022. That particular Government order had been issued on the strength of Section 9 (1) (d) of the Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987, which authorizes the Government to declare regulation of market areas in any notified agricultural produce, garlic was added as one of the produce.

8. That particular Government order was challenged by the learned Senior Counsel by stating that, the petitioner is not carrying on business in any one of the notified market areas as stated in the said Government order.

9. However, while directing notice, it has been informed that, the Government, by a subsequent Government order in G.O.Ms.No.01, dated



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03.01.2023, Agriculture and Farmers Welfare [AM2 (1)] Department had cancelled G.O.Ms.No.84, which was the basis under which the impugned notice against the petitioner had been issued.

10. The relevant portion in G.O.Ms.No.01 is as follows:

“5. The Government after careful examination, have decided to accept the proposal of the Director of Agriculture Marketing and Agri Business. Accordingly, the Government direct that the notification issued in G.O.(Ms) No.84, Agriculture and Farmers Welfare (AM2) Department, dated:23.04.2022 in which the confirmation notification was issued for Uniform Notification of the 40 commodities declaring the regulation of purchase and sale of the said agricultural produces in the notified market areas of 284 Regulated Markets Under 27 Market Committees in Tamil Nadu under clause (d) of sub-section (1) of Section 9 of the Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987 (Tamil Nadu Act 27 of 1989) be cancelled.”



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11. Additionally, a counter affidavit had also been filed, but let me rest with extracting only the portion relating to G.O.Ms.No.84 alone, since, in the counter affidavit, the respondents have also touched upon various other aspects which are not germane to dispose the present Writ Petition.

12. In the counter affidavit, it had been specifically stated as follows:

“5. the Uniform Notification has been cancelled by the Government as per G.O.(ms) No.1 Agriculture and Farmers Welfare (AM2(1)) Department, Dated 03.01.2023.”

13. It is thus seen, that the basis for issuance of notice itself had been cancelled by the Government or rather as stated by the learned Special Government Pleader, de-notified.

14. In view of that particular facts, nothing further survives for adjudication in the present Writ Petition. The petitioner stands protected.



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The notice does not have any strength of any statute or any rule or any regulation.

15. The Writ Petition stands disposed of with a direction to the respondents that on the basis of the impugned notice, the respondents should not interfere with the business of the petitioner herein at the aforementioned two addresses. No order as to costs. Consequently, the connected miscellaneous petitions stands closed.

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(1/2)

ssi

Index : Yes/No

Internet : Yes/No

Neutral Citation Case: Yes/No

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