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W.P.No.6287 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 24.04.2023**

CORAM :

**THE HONOURABLE MR. JUSTICE M. DHANDAPANI**

**W.P.No.6287 of 2020**

S.Sathiesh Kumar

... Petitioner

Vs.

1.The Collector,  
Cuddalore District.

2.The Commissioner,  
Cuddalore Municipality,  
Cuddalore.

3.The Tahsildar,  
Cuddalore Taluk,  
Cuddalore.

4.M/s.A.K.A.Agency,  
3/1-A, Pattathoppu,  
K.K.Nagar,  
Vannarapalayam,  
Cuddalore – 607 001.

5.M/s.A.K.A.S.Agency,  
3/1-A, Pattathoppu,  
K.K.Nagar,  
Vannarapalayam,  
Cuddalore – 607 001.

... Respondents



W.P.No.6287 of 2020

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for all the connected and relevant records relating to the impugned communication nil dated February, 2017 sent by the third respondent and quash the same and direct the first and second respondents to stop carrying on the business of cement, jally, sand, bricks and iron rods by the fourth and fifth respondents.

For Petitioner : Mr.D.Sadhasivan  
For Respondents : Mr.U.Baranidharan  
Additional Government Pleader  
[R1 to R3]  
M/s.K.Seetharam [R4 & R5]

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### **ORDER**

The Writ Petition is filed seeking for a Writ of Certiorarified Mandamus, to call for all the connected and relevant records relating to the impugned communication nil dated February, 2017 sent by the third respondent and quash the same and to direct the respondents 1 and 2 to stop carrying on the business of cement, jally, sand, bricks and iron rods by the respondents 4 and 5.

2. The case of the petitioner is that, he is working as a driver in SETC, Pondicherry Depot. While so, the respondents 4 and 5 are doing



W.P.No.6287 of 2020

business in cement, jally, sand, bricks and iron rods in the Pattathoppu, K.K.Nagar, Cuddalore, which is adjoining his house without any Government permission and against the law. Thereafter, he sought information before the second respondent under the Right to Information Act and the second respondent by its communication dated 20.03.2014 has stated that T.S.Nos.1433 and 1436 in Block No.44, Ward No.6 has been classified as Mixed Residential Area and that no permission was granted by the Municipality to the respondents 4 and 5 to carry on business in cement, jally, sand, bricks and iron rods. Due to the business activities of the respondents 4 and 5, there was heavy dust emanating, thereby causing health hazards to the petitioner. Hence, he made several representations before the respondents 1 to 3 to take action against the respondents 4 and 5, however, no action has been taken by the respondents 1 to 3. Thereafter, the third respondent has passed impugned communication nil dated February, 2017. Challenging the same, the above Writ Petition is filed.

3. Though very many grounds have been raised in this writ petition, the learned counsel for the petitioner submits that, the business of the respondents 4 and 5 in the mixed residential area is not permitted and the



W.P.No.6287 of 2020

third respondent has no jurisdiction to decide the issue and pass the impugned communication. Hence, he prays that the same may be quashed by this Court.

4. The learned Additional Government Pleader appearing for the respondents 1 to 3 submits that, as against the impugned communication of the third respondent, there is an effective appeal remedy before the appellate authority under the Right to Information Act. Hence, he prays for dismissal of the above Writ Petition.

5. Heard Mr.D.Sadhasivan, learned counsel for the petitioner, Mr.U.Baranidharan, learned Additional Government Pleader appearing for the respondents 1 to 3 and M/s.K.Seetharam, learned counsel for the respondents 4 and 5 and perused the materials available on record.

6. It is a settled position of law that, when there is a statutory appeal remedy available, without exhausting the appeal remedy, writ petition would not be entertained by the High Courts except the circumstances, where if there is a glaring violation of principles of natural justice or for want of jurisdiction.



W.P.No.6287 of 2020

WEB COPY

7. In the absence of the above situations, no writ petition can be entertained by this Court as there has been a proper alternative effective appeal remedy available.

8. In that view of the matter, this Writ Petition is dismissed granting liberty to the petitioner to approach the appellate authority in the manner known to law. No costs.

**24.04.2023**

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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W.P.No.6287 of 2020

**M.DHANDAPANI, J.**

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**W.P.No.6287 of 2020**

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