



W.P.No.17444 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.17444 of 2023 and

WMP Nos.16596 and 16597 of 2023

G.Velusamy

... Petitioner

Vs.

1. The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai 600 009.
2. The Member-cum-Secretary,
Tirupur Loan Planning Authority, Tirupur.
3. The Commissioner, Tirupur Municipal Corporation,
Tirupur 641 601.
4. The Assistant Commissioner
Tirupur Municipal Corporation, Tirupur 641 601.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to consider and pass orders on the appeal petition submitted to the Government dated 20.04.2023 under Section 49 of the Tamil Nadu Town and Country



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Planning Act, 1971, within a reasonable period as may be fixed by this Court and till then, the respondents 3 and 4 shall not to pursue the matter further till the disposal of the application submitted by the petitioner to the first respondent under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.E.Vijay Anand,
Additional Government Pleader for R1 and R2

Mr.Abishek Murthy
Standing Counsel for R3 & R4

ORDER

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This Writ Petition has been filed to direct the first respondent to consider and pass orders on the appeal petition submitted to the Government dated 20.04.2023 under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971, within a reasonable period as may be fixed by this Court and till then, the respondents 3 and 4 shall not to pursue the matter further till the disposal of the application submitted by the petitioner to the first respondent under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971.



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2. The petitioner is the owner of the property in S.No.119/1C2 and 119/1C3 of B.N.Road, Anna Nagar, Neruperichal Village, Tirupur City Municipal Corporation and he had applied for approval of building plan on 03.01.2016 by remitting necessary fees for constructing a factory. The petitioner has constructed the building and property tax has been assessed from the year 2017 and the same has been paid without any default till date. According to the petitioner, he provided sufficient wide open space surrounding the factory and there is no violation with regard to the open space reservation.

2.1. In such circumstances, a Trust, namely, the Sindhu Seva Samithi Trust had filed a writ petition in W.P.No.28776/2017 before this Court, and vide order dated 06.03.2023, a Division Bench of this Court has directed the Commissioner of Tirupur City Municipal Corporation and the Assistant Commissioner, Zone-II of Tirupur Corporation to take action for lock and sealing and also for demolition of the unauthorized portion put up by the petitioner. Therefore, the petitioner has filed an application on 20.04.2023 before the Secretary to Government, Housing and Urban Development Department under Section 49 of the Tamil Nadu Town and Country



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Planning Act, by submitting the application for planning permission and also for approval of the revised plan. Since the above said Appeal is under consideration, no further action can be restored to, as per Section 56(4)(a) of the Tamil nadu Town and Country Planning act, 1971. Hence the writ petition.

3. Mr.E.Vijay Anand, learned Additional Government Pleader takes notice for the respondents 1 and 2 and Mr.Abishek Murthy, learned Standing Counsel takes notice for the respondents 3 and 4.

4. The learned Additional Government Pleader submitted that, without obtaining approved plan from the Tiruppur Municipal Corporation, the petitioner had constructed the factory. He further submitted that, in the Writ Petition filed by one Sindhu Seva Samithi Trust, a Division Bench of this Court has passed an order on 21.12.2018, directing the respondents concerned to take action against the unauthorized construction put up by the petitioner herein. Therefore, for taking steps in pursuant to the above said order and also to file a Status Report, he seeks for granting time.



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5. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents and we perused the materials available on record.

6. According to the respondents, the petitioner has not obtained any planning approval for construction of the factory. The petitioner himself admitted that he had filed an application before the Director of Town and Country Planning for regularization of the building plan and also filed an application before the Government under Section 49 of the Tamil Nadu Town and Country Planning Act for approval of the revised plan and the same is pending for consideration.

7. At this juncture, the counsel appearing to either parties informed before this Court that it is suffice to give appropriate direction to the first respondent to consider the application filed by petitioner, within a time frame as fixed by this Court.



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8. Inview of the above submission, the first respondent is directed to consider the application filed by the petitioner under Section 49 of the Tamil Nadu Town and Country Planning Act and decide the same in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this Order. It is made clear that before passing orders, sufficient opportunity of hearing has to be given to the petitioner as well as the Sindhu Seva Samithi Trust and also to the aggrieved parties if any.

9. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(D.K.K.J.)

(P.D.B.J.)

13.06.2023

Internet: Yes/No
Index : Yes/No
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To

WEB COPY

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Secretariat, Chennai 600 009.
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3. The Commissioner, Tirupur Municipal Corporation,
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