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W.P.No.20996 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.09.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.20996 of 2023
and W.M.P No.20368 of 2023

M/s. Sri Gowri Steel Rolling Mills,
Represented by its Manager,
M.M.Manikandan,
S.F.No.7, Vadugapalayam Village,
Dharapuram Taluk, Tiruppur District

...Petitioner

Vs.

1.The District Collector/Inspector of Panchayats,
The District Collectorate,
Tiruppur District- 641 604.

2. The Block Development Officer,
Kundadam Panchayat Union,
Dharapuram Taluk,
Tiruppur District- 638 702.

3.The President
Sankarandampalayam Village Panchayat,
Kundadam Panchayat Union,
Dharapuram Taluk,
Tiruppur District- 638 706

4. Director of Town and Country Planning.
C&E Market Road,
Koyambedu, Chennai 600107.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings and order of the 3rd Respondent dated 21.06.2023, quash the same and consequently direct the respondents to issue building permit as per the Tamil Nadu Combined Development and Building Rules, 2019.

For Petitioner	: Mr.Niranjan Rajagopalan
For Respondents 1 & 4	: Mr.J.Ravindran, Additional Advocate General-9 Assisted by Mrs.S.Anitha, Special Government Pleader
For Respondent 2	: Mr.Yogesh Kannadasan, Special Government Pleader
For Respondent 3	: Mr.P.Nethaji

ORDER

The writ petition is filed challenging the order passed by the 3rd respondent, cancelling the building permit granted to the petitioner for erection of factory for production of steel.



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2.The petitioner moved the 3rd respondent for necessary permission for erection of factory and the same was granted in favour of the petitioner on 07.12.2020, for a period of one year. The petitioner also applied for consent to establish the factory before the Tamil Nadu Pollution Control Board and the same was also issued. The petitioner was issued with certificate granting Environmental Clearance for establishment of factory by the State Level Environment Impact Assessment Authority-Tamil Nadu. After getting necessary permission and clearance, the petitioner started the erection of factory. However, due to Covid 19 outbreak there was a lull in the construction activity. As the construction could not be completed within a period of one year, the petitioner applied to the 3rd respondent for renewal of the building plan permit on 06.12.2021. The 3rd respondent passed a resolution on 02.02.2022, cancelling the building permit granted in favour of the petitioner even without notice. The said resolution was challenged by the petitioner in W.P.No.3797 of 2022 and this Court by order dated 09.02.2023, was pleased to set aside the resolution and directed the petitioner to offer his explanation to the 3rd respondent, treating the resolution as show cause notice. In pursuance of the direction issued by this Court, the petitioner offered his explanation and thereafter, the impugned order came to be passed by the 3rd respondent,



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rejecting the petitioner's application for renewal of building permit. The petitioner's request for renewal was rejected mainly on three grounds.

1) The consent of the Tamil Nadu Pollution Control Board and Environmental Clearance have been obtained by the petitioner by misrepresentation and by producing bogus documents.

2) The land in question in which the erection of factory is going on is an agricultural land and the petitioner has not obtained any orders from the District Collector for re-classification of the land for use of industrial purpose.

3) The petitioner has not obtained any license from the Local Authority under Section 159 and 160 of the Tamil Nadu Panchayats Act, 1994, for running a factory.

3. Heard the arguments Mr.Niranjana Rajagopalan, learned counsel for the petitioner and that of Mr.J.Ravindran, learned Additional Advocate General-9 assisted by Mrs.S.Anitha, learned Special Government Pleader appearing for the respondents 1 & 4. Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the 2nd respondent. Mr.P.Nethaji, learned counsel appearing for the 3rd respondent.



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4.The learned counsel appearing for the petitioner assailed the impugned order mainly on the ground that the petitioner obtained necessary consent from the Tamil Nadu Pollution Control Board on 25.08.2021 and the same is valid till 31.03.2028. It is also submitted that the petitioner also obtained Environmental clearance from the State Level Environment Impact Assessment Authority on 30.04.2021. Both the orders have not been challenged by the 3rd respondent till date. The learned counsel further submits that the 3rd respondent has no jurisdiction to question whether the consent granted by the Tamil Nadu Pollution Control Board is correct or not. Likewise, the 3rd respondent cannot decide the correctness or otherwise of the Environmental Clearance certificate issued by the State Level Environment Impact Assessment Authority. During the course of the arguments, when the learned counsel for the petitioner is questioned whether the petitioner obtained necessary orders from the District Collector for re-classification of the agricultural land for the purpose of erection of factory, the learned counsel after getting instructions, submitted that the petitioner submitted an application for re-classification before the District Collector and the same has not been processed till date.



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5.Mr.P.Nethaji, learned counsel appearing for the 3rd respondent vehemently contented that the petitioner obtained consent from the Tamil Nadu Pollution Control Board and the Certificate from the State Level Environment Impact Assessment Authority by producing bogus documents and by misrepresentation. Therefore, the consent given by the Tamil Nadu Pollution Control Board and the Environmental Clearance certificate issued by the Authority concerned cannot be taken into consideration. The learned counsel further submits that the petitioner is erecting a factory in an agricultural land, without any land conversion order by the Competent Authority namely the District Collector. Therefore, the petitioner is not entitled to erect the factory in an agricultural land. It is also submitted by the learned counsel that the petitioner has not obtained any permission for running a factory under Section 160 of the Tamil Nadu Panchayats Act, 1994. Therefore, he is not entitled to proceed with construction.

6.As far as the 1st ground raised by the learned counsel for the respondent is concerned, the Competent Authorities namely the Tamil Nadu Pollution Control Board and the State Level Environment Impact Assessment



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Authority, after considering the application of the petitioner for erection of factory, issued necessary certificates permitting the petitioner to construct a factory. In such circumstances, the 3rd respondent Local Authority is not entitled to go in to the correctness or otherwise of the certificates issued by the Tamil Nadu Pollution Control Board and the State Level Environment Impact Assessment Authority. If it is the case of the 3rd respondent that such certificates are obtained by the petitioner by making misrepresentation before the Competent Authorities, it is always open to the 3rd respondent to move the Competent Authorities for cancellation of certificates issued to the petitioner. However, the 3rd respondent cannot sit in Appeal over the decision of the Competent Authorities, which is an expert body. Therefore, the 1st ground mentioned in the impugned order is not acceptable to this Court.

7.As far as classification of the land, in which the petitioner is erecting a factory is concerned, admittedly the same is classified as an agricultural land. In such circumstances, the petitioner is not entitled to erect a factory in the said land without obtaining re-classification of land by the Competent Authority namely the District Collector. In the case on hand, the petitioner said to have submitted an application before the District Collector for re-



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classification of land and no order has been passed in such application, till date. In such circumstances, the second ground mentioned in the impugned order for refusing building permit to the petitioner is acceptable and the impugned order is sustained on that ground. However, if the petitioner is able to get necessary orders from the District Collector for re-classification of land for the erection of factory, it is always open to him to file an application before the 3rd respondent for building permit by producing the order for re-classification of land. In such circumstances, the 3rd respondent shall consider the same in accordance with law.

8.As far as the 3rd reason mentioned in the impugned order is concerned, the erection of factory is not yet over, the question of getting permission for running a factory will arise only after construction of factory is over and at the time of installation of machineries. In the case on hand, the construction of factory is not yet over and the same has not reached the position of installation of machineries. In such circumstances, obtaining permission under Section 160 of the Tamil Nadu Panchayats Act, 1994, will not arise at this stage. However, in case, the petitioner applied for building permit after getting necessary orders for re-classification of land from the District Collector, the



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petitioner should also apply for necessary permission under Section 160 of the Tamil Nadu Panchayats Act, 1994, for running a factory.

9. With these observations, the writ petition stands disposed of by confirming the impugned order. However, the petitioner is granted liberty to apply afresh as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

22.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

1. The District Collector/Inspector of Panchayats,
The District Collectorate,
Tiruppur District- 641 604.



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S.SOUNTHAR, J.
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2. The Block Development Officer,
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Dharapuram Taluk,
Tiruppur District- 638 702.
3. The President
Sankarandampalayam Village Panchayat,
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