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WP.No.25518 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.25518 of 2022

R.Sampoornam

... Petitioner

Vs

1. The District Collector,
Nilgiris District, Nilgiris.

2. The Tahsildar,
Coonoor Taluk, Nilgiris District.

3. The Commissioner,
Coonor Municipality, Nilgiris.

... Respondents

Prayer:- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Mandamus directing the second respondent to hand over the key in respect of the shop located at Shop No.144, High Field Estate, Coonoor Taluk, Nilgiris District to the petitioner based on the communication of the first respondent in Na.KaT8/No.18581/2021 dated 13.05.2022 enabling her to run the 'Aavin Milk Booth' forthwith.

For Petitioner : Mr.C,Prabakaran



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For Respondents : Mrs.R.Anitha
Special Government Pleader

ORDER

This Writ Petition has been filed to direct the second respondent to hand over the key in respect of the shop located at Shop No.144, High Field Estate, Conoor Taluk, Nilgiris District to the petitioner based on the communication of the first respondent dated 13.05.2022 enabling her to run the 'Aavin Milk Booth' forthwith.

2. It is the case of the petitioner that she is running the Aavin Booth in the premises with the permission of the Nilgiris District Co-operative Milk Producers' Union, Udhagamandalam from the year 2008. When the matter stood thus, on 09.02.2022 all of a sudden, the respondents 2 and 3 entered the shop of the petitioner on the basis of a complaint of some unknown person that she is selling banned tobacco items like pan and Gutka and after inspection, no materials were found in the bunk shop of the petitioner. However, the officials sealed the shop and took the key without any reason. Therefore, the petitioner made a representation dated



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30.04.2022 to the respondents. But the same has not been considered by the respondents. Hence, the present Writ Petition has been filed for the aforesaid relief.

3. In the counter, admitting the permission granted by the District Co-operative Milk Producer's Union to run the Aavin booth from the year 2007, it is the stand of the second respondent that many complaints have been received from the general public that the petitioner was selling banned tobacco products. It is their further contention that while inspection, it was found that the petitioner was selling, other than the aavin products, viz., banned tobacco items. Therefore, the second respondent locked the premises. It is also stated that the petitioner bunk is situated in a highly objectionable place besides due to the petitioner's activities, there are several problems faced by the local people. The shop of the petitioner has been sealed as she is running the shop in the Government land. Hence, the shop has been sealed.

4. The learned counsel appearing for the petitioner submitted hat the



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action of the second respondent sealing the shop is not bonafide one and it is due to some influence shown by others in the area. No tobacco products whatsoever has been seized from the shop of the petitioner. The learned counsel appearing for the petitioner also drew the attention of this Court to the permission granted by the the Nilgiris District Co-operative Milk Producers Union in the year 2007 to run the shop and also the permission to run Aavin booth has been granted by the Revenue Authorities. Hence, submitted that without any reason the shop has been sealed and keys are kept in the custody of the second respondent.

5. Whereas, the learned Government Pleader contended that the shop has been closed due to seizure of certain banned tobacco products from the shop of the petitioner and hence, opposed the Writ Petition.

6. I have perused entire materials available on record. The fact that the Managing Director of the Nilgiris District Co-operative Milk Producers Union has allotted agency to the petitioner to sell Aavin Milk and Milk Products by proceedings dated 30.11.2007 has not been disputed in the counter. The letter authorising the petitioner as an agent of Aavin is also



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placed in the typed set of papers. On the basis of the above letter, the third respondent has also recommended for allotment of the area for running Aavin booth by its proceedings in Na.ka.No.C4/6556/2008 dated 19.09.2008. The only contention of the respondents is that on inspection of the shop run by the petitioner, they have found certain banned tobacco products in the premises. Therefore, they had sealed the shop and took away the key.

7. It is relevant to note that if there is seizure of tobacco products, the immediate action of the respondents would have been lodging the First Information Report and produce the seized items before the police. But nothing has been done in this regard. Therefore, merely on the allegation of the respondents, their contention cannot be countenanced. The petitioner has been running the booth with necessary permission and on the recommendation of the third respondent, the petitioner was inducted in the Government land and was running the business in the premises from the year 2008 till the premises was inspected by the officials, without any materials to show that the banned items were sold or seized from the shop, sealing the shop, that too without giving any opportunity to explain the



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circumstances or otherwise, without issuing any show cause, cannot be sustained in the eye of law and hence, the shop of the petitioner cannot be sealed.

8. Accordingly, this Writ Petition is allowed and the second respondent is directed to hand over the key of the shop to the petitioner within a period of one week from the date of receipt of a copy of this Order. No costs.

02.01.2023

vrc

To

1. The District Collector,
Nilgiris District, Nilgiris.
2. The Tahsildar,
Coonoor Taluk, Nilgiris District.
3. The Commissioner,
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N.SATHISH KUMAR, J.

VTC

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