



W.P.(MD)No.2355 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.11.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.2355 of 2021

and

W.M.P.(MD).Nos.1956 & 1957 of 2021

R.Selvi

... Petitioner

Vs.

1.The Assistant Divisional Engineer,
Highways, Construction and
Maintenance,
Aruppukottai, Virudhunagar District.

2.The General Manager,
Virudhunagar District Cooperative Milk
Producers Union Limited,
Srivilliputhur,
Virudhunagar.

3.The Executive Officer,
Mallankinaru Town Panchayat,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 1st Respondent in Na.ka.No.216/2020/E.Ni.Va.Tho/dated 18-01-2021 and quash the same in so far condition No.4 therein is concerned and consequently direct the 1st



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respondent herein to grant No objection to the petitioner in so far as the proposed shop being temporary shed and harmless for any vehicle or traffic in the Highways is concerned.

For Petitioner : Mr.K.Muthu Ganesa Pandian

For R-1 to R-3 : Mr.A.K.Manikkam,
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the Condition No.4 in the proceedings of the first respondent dated 18.01.2021 and for a consequential direction to the first respondent to grant no objection to the petitioner to put up a temporary shed and to sell the Aavin milk products.

2. The case of the petitioner is that she applied to run a retail Aavin milk vending and sale of milk products in Survey No.333/1. The petitioner was asked to get No Objection Certificates from the various authorities. The petitioner also get the No Objection Certificate from all the authorities and she was expecting the first respondent to grant the license to the petitioner to put up the temporary shed and do the business. The petitioner came to know that the first respondent through proceedings dated 18.01.2021 had also imposed a condition that the petitioner must get a No Objection Certificate from the land owner behind the place where the



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shed is going to be put up by the petitioner. Aggrieved by the same, the present Writ Petition has been filed before this Court.

3. A counter affidavit has been filed by the respondents. The respondents have taken a stand that behind the proposed place where the temporary shed is going to be put up, there is a vacant site. Therefore, the respondents are apprehending that at some point of time, the owner of this property may put up some structures and at which point of time, he will question the temporary shed put up by the petitioner and it will end up in some litigation. Therefore, there was an insistence for getting the no objection from the land owner.

4. This Court has carefully considered the submissions made on either side and the materials available on record.

5. In the considered view of this Court, the petitioner has obtained no objection from all the authorities and she was waiting for permission from the first respondent to put up the temporary shed and to sell the milk products belonging to Aavin. As such, there was an old bus



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stop in the same place and in that place, the petitioner is proposing to put up a temporary shed to do the business. As on today, the so-called vacant place contains thorny bushes and it is not even being maintained by anyone. Therefore, the respondents are anticipating a future problem and denying the license to the petitioner. The petitioner has been running from pillar to post to run the business to eke her livelihood. Therefore, the petitioner cannot be asked to perform an impossible task of finding the owner of the site which is not even being maintained and to get a no objection.

5. In the light of the above discussion, the respondents cannot insist the petitioner to get no objection from the owner of the property behind the proposed place where the temporary shed is going to put up by the petitioner. This place was already used in the past as a bus stand and in that place, the temporary shed is going to be put up. Hence, there shall be a direction to the first respondent to issue license to the petitioner in order to enable the petitioner to run the business in the temporary shed. As and when any problem arises in the future, the petitioner can cross the bridge at that time. This process shall be completed by the first respondent within a



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period of two (2) weeks from the date of receipt of a copy of this order.

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6. In the result, the Writ Petition is allowed with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
tsg

To

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N.ANAND VENKATESH, J.

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