



W.P(MD)No.1904 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.1904 of 2023

and

W.M.P.(MD)Nos.1680 and 1682 of 2023

M/s.S3H Spa Services Private Limited,
Rep.by its Director,
No.48 A, Second Floor,
Sriram Hospital Complex,
Pandian Nagar West,
Bye-Pass Road, Madurai 625 016.

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Collectorate, Madurai - 625 020.

2.The Commissioner of Police,
O/o.The Commissioner of Police,
Alagarkovil Main Road,
Madurai - 625 002.

3.The Commissioner,
Madurai Corporation,
Thallakulam, Madurai - 625 002.



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4.The Assistant Commissioner/
Administrative Officer-Zone III (Central)
Madurai Corporation,
North Marret Street, Madurai - 625 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the second respondent vide his proceedings in Na.ka.No.Vi3/26734/162/2021, dated 03.12.2022, quash the same and further direct the second respondent to give 'No objection Certificate' forthwith to the petitioner to run “The Mind S3H Spa-69” at Door No.48A, Bypass Road, Pandian Nagar West, Madurai.

For Petitioner : Mr.K.Ragatheesh Kumar,
M/s.Issac Chambers,

For Respondents : Mr.J.K.Jeyaseelan,
Government Advocate (Civil Side), for R1.

: Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor, for R2.

: M/s.S.Devasena,
Standing Counsel, for R3 and R4

ORDER

The writ petitioner filed this Writ Petition seeking for issuance of a Writ of Mandamus, to call for the records relating to the impugned



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proceedings issued by the second respondent vide his proceedings in Na.ka.No.Vi3/26734/162/2021, dated 03.12.2022, quash the same and further direct the second respondent to give 'No objection Certificate' forthwith to the petitioner to run “The Mind S3H Spa-69” at Door No.48A, Bypass Road, Pandian Nagar West, Madurai.

2. The learned counsel for the petitioner would submit that the Hospital is running in the ground floor as well as in the the first floor; that after getting permission from the Corporation, they have made further constructions in the second and third floors; that the Doctor who is running the Hospital, has occupied the third floor as his residence and now the said Doctor has proposed to run the petitioner's Spa in the second floor. The second respondent, after considering the representation of the petitioner, has passed an order, dated 03.12.2022, rejecting their request, by holding that NOC cannot be issued mainly on the ground that the building in dispute was in occupation for the Hospital and in the first floor, they are having an operation theatre and that the building construction work has not been completed.



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3. It is admitted by all the counsel on record that the petitioner, after getting NOC, has to approach the third respondent and thereafter, to approach the first respondent for necessary permission to conduct SPA.

4. The learned counsel for the petitioner would submit that the construction works have already been completed and they have also produced a completion certificate before the second respondent. He would further submit that the second respondent has not provided any opportunity to make their representations.

5. Admittedly, the second respondent, without affording any opportunity to the petitioner, has passed the impugned order and thereby violating the principles of natural justice. Hence, this Court is of the view that the petitioner should be given an opportunity to put forth his contentions before the second respondent. Hence, the impugned order passed by the second respondent is liable to be set aside.

6. In the result, the Writ Petition is allowed and the impugned order passed by the second respondent in Na.ka.No.Vi3/26734/162/2021,



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dated 03.12.2022, is set aside and the second respondent is directed to consider the petitioner's representation by affording an opportunity and pass orders within a period of ten days from the date of receipt of copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

03.02.2023

NCC : Yes/ No
Index : Yes/No
Internet : Yes/ No
das

To

- 1.The District Collector,
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Collectorate, Madurai - 625 020.
- 2.The Commissioner of Police,
O/o.The Commissioner of Police,
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K.MURALI SHANKAR, J

das

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
W.P(MD)No.1904 of 2023

03.02.2023