



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.2344 of 2023 and
W.M.P.(MD)No.2103 of 2023

S.Lenin Dharmaraj

... Petitioner

Vs.

1. The District Collector,
Thoothukudi District,
Thoothukudi.

2. The Executive Engineer,
Public Works Department,
(Building Construction & Maintenance Division),
Thoothukudi District, Thoothukudi.

3. The President,
Akkanayaganpatti,
Ottapidaram Taluk,
Thoothukudi.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 2nd respondent passed in letter No.321m/VaPi/EVaA.2/Ko.28/2023 dated 30.01.2023 and quash the same and consequentially direct the 2nd respondent to issue stability certificate based on petitioner's representation dated 18.01.2023 and permit him to operate the amusement items from 05.02.2023 to 07.02.2023 during St.Antony's



Church festival at Puliampatti village, Ottapidaram taluk,
Thoothukudi.

For Petitioner : Mr.S.Chellapandian

For Respondents : Mr.M.Lingadurai,
Special Government Pleader.

* * *

ORDER

Heard the learned counsel on either side.

2. The writ petitioner is engaged in the business of operating giant wheels and other amusement items during the festivals. In the territorial limits of the third respondent Panchayat, St.Antony's Church festival is to be held from 05.02.2023 to 07.02.2023. The petitioner has installed giant wheels during the festival held during the year 2020. The second respondent had given stability certificate during the relevant time. A copy of the said certificate dated 08.02.2020 issued by the Assistant Engineer, Building Construction and Maintenance Division, Public Works Department, Thoothukudi, has been produced before me. The second



respondent has however now declined to issue such certificate in favour of the petitioner. Challenging the rejection order, the present writ petition has been filed.

3. When the second respondent has been issued such stability certificates for giant wheels during the preceding years, it is not known as to why he should suddenly develop cold feet. It is possible that in view of the accidents that have happened in recent past, the second respondent is hesitant. In my view, the administrative authorities should not be chicken-hearted. The second respondent must conduct inspection and if the giant wheel installed by the petitioner is fit for operation, he must not hesitate to issue stability certificate.

4. In this view of the matter, the communication impugned in this writ petition is quashed. This writ petition stands allowed. The petitioner is said to have already installed the giant wheel in Puliampatti Village in connection with St.Antony's Church festival to be held from 05.02.2023 to 07.02.2023. The second respondent shall depute his



concerned engineer to conduct inspection tomorrow and if the second respondent is satisfied that the giant wheel is structurally stable, he shall issue the certificate as sought for. Of course if according to the second respondent, the giant wheel is not in proper condition, then of course the second respondent may not be able to issue certificate. The issue is left to the provisional jurisdiction of the second respondent which shall not be exercised arbitrarily. This writ petition stands allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

03.02.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

Note : Issue order copy on 03.02.2023.

To:

1. The District Collector,
Thoothukudi District, Thoothukudi.
2. The Executive Engineer,
Public Works Department,
(Building Construction & Maintenance Division),
Thoothukudi District, Thoothukudi.



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G.R.SWAMINATHAN,J.

PMU

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