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W.P.(MD)No.3173 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.3173 of 2023

and

W.M.P.(MD)Nos.2961 and 2963 of 2023

Jahir Hussain

... Petitioner

Vs.

1.The Commissioner,
Dindigul Corporation,
Dindigul District.

2.The Town Planning Officer,
O/o. The Town Planning Officer,
Municipal Corporation,
Dindigul District.

3.The Assistant Town Planning Officer,
O/o. The Assistant Town Planning Officers,
Municipal Corporation,
Dindigul District.

... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for records of impugned Notice in Na.Ka.No.2018/2018/F3 dated 28.11.2022 passed by the respondent No.1 and quash the same as illegal and consequently direct the respondent No.1 to allot shop to the petitioner as resolution passed by the respondents.



For Petitioner : Mr.S.M.A.Jinnah
For R1 : Mr.M.Thirunavukkarasu
learned standing counsel
For R2 and R3 : Mr.A.K.Manikkam,
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2.The petitioner was permitted to function as sale dealer by Tamil Nadu Tan Tea Plantation Corporation Limited. Following the correspondence between the Tan Tea Corporation and the Dindigul Corporation, even certain sites were earmarked. However, for certain reasons, those sites could not be permitted to be occupied by the petitioner. In these circumstances, the petitioner filed W.P.(MD)No. 14813 of 2021. This Court vide order dated 25.08.2021 disposed of the writ petition in the following terms:

" 4. In view of the submission of the Municipal Corporation that it does not intend to remove the shop at this juncture, the principal grievance and apprehension of the petitioner has been addressed. As long as the petitioner adheres to the terms and conditions of the licence granted to him, he should not be disturbed except in the manner stipulated in such licence. As regards the offer of an alternative site, it is open to the petitioner and the Municipal Corporation to agree upon the re-location of the tea shop to such alternative site."



3. Contending that the order passed by this court was not complied with the petitioner even initiated contempt proceedings. There upon, the impugned notice dated 28.11.2022, came to be issued by the Commissioner, Dindigul Corporation. By the impugned communication, the petitioner was informed that the site chosen within the bus stand premises is not suitable and that therefore an alternate site is proposed to be allotted. Challenging the said communication, the present writ petition came to be filed.

4. The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of this petition and called upon this Court to set aside the impugned communication and grant relief as prayed for.

5. When the matter was taken up for hearing, the learned standing counsel produced a copy of the allotment order dated 17.02.2023. The Corporation counsel had also consented for allotting the site mentioned in the communication bearing Na.Ka.No. 2018/2018/F3, dated 17.02.2023. The petitioner is of the view that the said site is not suitable for carrying on business.



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6. Though the learned counsel for the petitioner strongly contended that the reason for not permitting the petitioner to run his business at the earlier sites was on account of political animosity of solitary councillor, I am not persuaded to accept the same. This is because the petitioner had not obtained any licence in a public auction. The petitioner has no right as such to occupy a piece of public land. Ofcourse, the Tan Tea is also a Government undertaking but then Tan Tea is not the writ petitioner before this Court. At the instance of an individual, this Court will not be justified in directing the local body to earmark the permitted site. However, the sites referred to by the petitioner shall not be allotted to any other person except through public action. The writ petitioner ofcourse, can take part in any public auction that may be conducted by the corporation in future. It is for the petitioner to avail the offer set out in the impugned communication dated 17.02.2023. The petitioner is given two weeks time to make up his mind and response. The petitioner can also submit any representation before the Commissioner, Dindigul Corporation for allotting any alternative site. It is for the local body to take the call in this matter.



7.This writ petition is disposed of, with these directions. No

costs. Consequently, connected miscellaneous petitions are closed.

23.02.2023

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

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To

- 1.The Commissioner,
Dindigul Corporation,
Dindigul District.
- 2.The Town Planning Officer,
O/o. The Town Planning Officer,
Municipal Corporation,
Dindigul District.
- 3.The Assistant Town Planning Officer,
O/o. The Assistant Town Planning Officers,
Municipal Corporation,
Dindigul District.



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G.R.SWAMINATHAN,J.

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