



WEB COPY

W.P.(MD)No.9804 of 2022



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.9804 of 2022

and

W.M.P.(MD)No.7022 of 2022

V.Perumal

... Petitioner

vs.

1.The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
No.25, SIDCO Industrial Campus,
Thuvakudi, Trichy.

2.The Chairman,
Permanent Lok-Adalat,
District Court Campus,
Trichy.



WEB COPY



3.Domenic Paulraj

4.The Commissioner,
Manaparai Municipality.

... Respondents

***(R4 is suo moto impleaded, vide Court
order, dated 14.06.2022 in
W.P.(MD)No.9804 of 2022)***

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the respondents 1 and 2 herein from taking coercive steps of placing the petitioner's Auto workshop bearing the name of Mariamman Auto Workshop situated at Pothamettupatti, Manapparai Taluk, Trichy District, under lock and seal pending the proceedings before the 1st and 2nd respondents herein based on the show cause notice, dated 30.11.2021 and enquiry notice, dated 15.02.2022, beside directing the 1st respondent to pass orders on the reply, dated 08.01.2022, submitted by the petitioner through his Counsel within a time frame as fixed by this Court by strictly ad-hearing to



WEB COPY



essential principles of natural justice.

For Petitioners : Mr.B.Prahalad Ravi
For R1 : M/s.Vijayakumari Natarajan
For R2 : Mr.Sasidharan Tamilkani
For R3 : Mr.I.Santhiyanantham
For R4 : Mr.R.Baskaran
Additional Advocate General
for Mr.M.Siddharthan

ORDER

This writ petition is filed for issuance of a writ of Mandamus, forbearing the respondents 1 and 2 herein from taking coercive steps of placing the petitioner's Auto workshop bearing the name of Mariamman Auto Workshop situated at Pothamettupatti, Manapparai Taluk, Trichy District, under lock and seal pending the proceedings before the 1st and



WEB COPY



2nd respondents herein based on the show cause notice, dated 30.11.2021 and enquiry notice, dated 15.02.2022, beside directing the 1st respondent to pass orders on the reply, dated 08.01.2022, submitted by the petitioner through his Counsel within a time frame as fixed by this Court by strictly ad-hearing to essential principles of natural justice.

2. The petitioner is running an “Auto Workshop” in the said place. The 3rd respondent is having his residence near the said workshop. According to the 3rd respondent, the workshop is causing noise pollution as well as air pollution. Hence, he preferred a complaint to the Tamil Nadu Pollution Control Board. Based on the complaint, the 1st respondent has issued show cause notice, dated 30.11.2021, directing the petitioner to show cause as to why action shall not be initiated under



WEB COPY



Section 31(a) and 37 of the Tamil Nadu Pollution Control Act. Hence the petitioner had filed this writ petition for Mandamus restraining the respondents from taking any adverse action against the petitioner. Pending this writ petition the 3rd respondent has moved to “Permanent Lok Adalat” which is attached to the District Court, Trichy. After considering the rival claims, the Permanent Lok Adalat has passed an award granting permission to the petitioner to run the workshop during day time and has directed to close it after sunset. The relevant portion of the award is extracted hereunder:

“5) In the result, the respondent no.1/respondent no.1 is prohibited from doing mechanical works after sunset that emitting lights, sound, fumes and cause polluting the vicinity and parking the vehicles in the nearby public streets which causes obstruction from peaceful enjoyment of nearby public pathway by public members. The 2nd respondent / 3rd respondent is directed to take steps to implement this order by letter and spirit.”



WEB COPY



necessary situation no night work has been carried out that the nearby locality which is residential enclave, there are several similar shops and that no objection has been received from the residents and it does not create any health hazards, besides that it has been mentioned in the report on Town Planning Inspector that the above property and the subject matter is located in a Commercial Zone. Based on the report of the Sanitary Inspector as well as the Town Planning Inspector, this respondent had submitted the explanation before the Permanent Lok Adalat, Thiruchirappalli narrating the above and had furthered to state that there has been continuously and constant vigil over the area with regard activity that had been conducted.

6. I respectfully submit that in the TamilNadu Combined Development and Building Rules, 2019, section 36 provides for the Planning Parameters of Industries for which detailed list has been provided in annexure 5,6,7 & 8 respectively.

- (i) Annexure 5 provides about list of cottage industries.*
- (ii) Annexure 6 provides about list of industrial classification as green.*
- (iii) Annexure 7 details about list of industrial classification as orange.*



WEB COPY



(iv) Annexure 8 details about list to industries permissible in Special and Hazardous industries zone or classification as red, by the Tamilnadu Pollution Control Board.

Even though, there is no specific provision with regard to Mechanical shop and repairing of two wheelers and four wheelers it does not come under the classification industries and even for industries classification in annexure 6 there is no restriction for locating the same in a commercial zone. Since this Hon'ble Court had issued notice to this respondent in order to give explanation about its stand before the Hon'ble Court, this respondent had submitted the reply as above."

4. Therefore, this Court is of the considered opinion that the Permanent Lok Adalat award ought to be confirmed in the writ petition. Hence, this Court confirms the Lok Adalat award and is passing the following orders:



WEB COPY



i) The respondents shall not disturb the petitioner, if the petitioner is strictly adhering to the condition of the award.

ii)The petitioner is restrained from operating workshop after sunset.

5. With the above said observation, the writ petition is disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

29.08.2023

Internet : Yes

NCC : Yes / No

Tmg



WEB COPY

W.P.(MD)No.9804 of 2022



S.SRIMATHY, J

Tmg

W.P.(MD)No.9804 of 2022

29.08.2023