



W.P(MD)No.6154 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6154 of 2019
and
W.M.P(MD)No.4912 of 2019

A.Amala Raj

... Petitioner

Vs

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Deputy Director of Health Services,
Kanyakumari, Nagercoil.

3.The Executive Officer,
Unnamalaikadai Town Panchayat,
Viricode Post,
Unnamalaikadai village,
Vilavancode Taluk,
Kanyakumari District.

4.The District Engineer,
Pollution Control Board,
Nagercoil.

5.Biju Raja Alto

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents herein to shift the chicken shop viz., "D.A.Chicken Corner" run by the fifth respondent herein from Eraviputhoor Kadai-Karungal Road, Kunnamparai, Pullanivilai, Nattalam Village, Kanjiracode Post, Kanyakumari District to some other place.

For Petitioner : Mr.Thayumanaswamy

For Respondents : Mr.M.Lingadurai
Special Government Pleader
for R.1 to R.3

Mr.Vijayakumari Natarajan
Standing Counsel for R.4

Mr.N.Dilipkumar for R.5

ORDER

Heard the learned counsel on either side.

2. The petitioner wants this Court to direct the official respondents to ensure shifting of the petition mentioned chicken shop. The shop has since been granted licence by the local body. It appears that the licence period has expired and not renewed only on account of the pendency of the writ petition. The official respondents have taken a stand in support of the private respondent. The petitioner has also filed his objection. The learned counsel for the petitioner took me through his pleadings and also produced a bunch of photographs in support of his contention. His allegations are as follows:



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a)Though the shop was licensed to run only in 10 X 10 feet dimensions, the fifth respondent has expanded his area of operation;

b)The shop is being run in a most unhygienic manner causing noxious smell to emanate;

c)Though there is no bio-gas plant set up in the premises, the authorities have made a false statement that such a plant has already been installed.

The petitioner's rights to clean environment guaranteed under Article 21 of the Constitution of India has been seriously breached.

3.I am however not fully persuaded by the contentions advanced by the learned counsel for the petitioner. These are matters that are essentially within the discretion of the authorities. The local body as well as the Health Department have cleared the case of the fifth respondent. Licence was also issued. In these circumstances, the only direction that this Court can issue is that the fifth respondent must run his business strictly in consonance with the licence terms and conditions. Of course, in order to address the concerns of the writ petitioner, liberty is given to the petitioner to move the Pollution Control Board. If the Pollution Control Board finds *prima facie* merit in the petitioner's complaint, it can even cause local inspection to be made and any consequential



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direction can be issued and the same will have to be done in accordance with law.

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5. With these observations and directions, this writ petition is disposed of.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

02.01.2023

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

To

1. The District Collector,
Kanyakumari District, Nagercoil.
2. The Deputy Director of Health Services,
Kanyakumari, Nagercoil.
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G.R.SWAMINATHAN, J.

MGA

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