



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.5594 of 2014 & 4287 of 2015 AND
M.P.(MD)Nos.1 & 2 of 2014 & 1 & 2 of 2015

W.P.(MD)No.5594 of 2014

Dharmaraj

... Petitioner

Vs.

1. The Divisional Engineer,
Highways Department,
Tirunelveli -2.

2. The District Collector,
Tirunelveli District,
Tirunelveli.

... 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 pertaining to the proceedings of the first respondent in Ka.No. 3487/2012/Va1/dated 24.1.2014 and quash the same and directing the respondents to renew the permission granted to the petitioner to occupy high ways land in KM 3/2 (Right side) Bye pass Road, at Tirunelveli for running the Aavin Milk Parlour .



For Petitioner : Mr.V.Kannan

For Respondents : Mr.D.Gandhiraj,
Special Government Pleader.

* * *

W.P.(MD)No.4287 of 2015

Dharmaraj

... Petitioner

Vs.

1. Tirunelveli District Co-operative
Milk Producer's Union Ltd.,
Rep. by its General Manager,
Tirunelveli-7.

2. The District Collector,
Tirunelveli District,
Tirunelveli.

... 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 pertaining to the proceedings of the first respondent in Ka. No.3924/M5/2011.1 dated 17.03.2015 and quash the same and consequentially directing the respondents to allow the petitioner to run Aavin milk parlour in the high ways land in Km 3/2(right side) bye pass road at Tirunelveli.



For Petitioner : Mr.V.Kannan
For R-1 : Mr.Aayiram K.Selvakumar
For R-2 : Mr.D.Gandhiraj,
Special Government Pleader.

* * *

COMMON ORDER

Heard the learned counsel on either side.

2. The petitioner is running Aavin booth in the petition-mentioned site. He has been an Aavin franchisee since 2011. On 24.01.2014, the license was cancelled on the ground that apart from Aavin products, the petitioner was also selling other items. The petitioner denied the allegation made against him. A copy of the reply dated 20.10.2014 issued by the petitioner has been enclosed in the typed set of papers. Without considering the petitioner's stand, the impugned order dated 17.03.2015 has been passed. On this sole ground, the orders impugned are set aside.

3. In normal circumstances, this Court can remand the matter for fresh consideration. However, while admitting the



writ petition and granting the interim order, a sum of Rs.50,000/- was ordered to be remitted by the petitioner to the credit of the first respondent in WP(MD)No.4287/2015.

4. The first respondent in WP(MD)No.4287/2015 is permitted to appropriate the same. This equitable direction is passed primarily because only to protect the petitioner's possession and enjoyment for some more time. The Highways Department through the learned Special Government Pleader informed the Court that they propose to widen the highways road. It is stated that the site on which the petitioner is running his parlour would come within the scope of the widening work.

5. Till the widening works are actually taken up, the petitioner can run the shop. The petitioner will not be given any fresh notice. The learned Special Government Pleader states that the widening works may be taken up any time. Thus the petitioner may not be able to continue his business in the petition-mentioned site any further. The first respondent shall not make any further claim on the petitioner regarding



arrears of rent. The Highways Department also need not issue any fresh notice for evicting the petitioner.

6. The petitioner is directed to pay a further sum of Rs.5,000/- to the first respondent in WP(MD)No.4287/2015 within a period of seven days from the date of receipt of a copy of this order. If the petitioner fails to adhere to the undertaking the benefit of this order shall stand automatically vacated. These writ petitions stand disposed of accordingly. Till the widening works are actually undertaken, the petitioner is entitled to carry on his business in the petition-mentioned kiosk. No costs. Consequently, connected miscellaneous petitions are closed.

21.08.2023

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

To:

The District Collector,
Tirunelveli District,
Tirunelveli.



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W.P.(MD)NO.5594 OF 2014

G.R.SWAMINATHAN,J.

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