



W.P(MD).No.17807 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.01.2023

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P(MD)No.17807 of 2015

and

M.P(MD) No.1 of 2015

Jesus Goes Forward Ministries,
rep., by its Pastor B.Ruban

Vs.

... Petitioner

- 1.The Secretary,
Minority Welfare Department,
Fort St.George, Chennai-9.
- 2.The District Collector,
Nagercoil, Kanyakumari District.
- 3.The Sub-Collector,
Nagercoil, Kanyakumari District.
- 4.The Revenue Divisional Officer,
Nagercoil Division,
Nagercoil, Kanyakumari District.
- 5.The Tahsildar,
Agasteeswaram Taluk,
Nagercoil, Kanyakumari District.
- 6.The Executive Officer,
Anjugramam Panchayat,
Kanyakumari District.



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7.The Superintendent of Police,
Nagercoil, Kanyakumari District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records relevant to the impugned order in D.Dis.C3/5141/2010 dated 19.11.2014 passed by the second respondent and the consequential order in D.Dis.C3/32757/2011 dated 02.07.2015 passed by the second respondent and quash the same and consequently directing the respondents 2, 5 and 6 to process the application for building plan and to grant planning permission to build concrete building for the existing prayer hall as a church in said premises comprised 32 cents in Survey No.857, 857/4, 857/5, 857/4B in Door No.87-D, Kanimadam, Anjugramam Post, Azhagappapuram, Anjugramam Village, Agasteeshwaram Taluk, Kanyakumari District.

For Petitioner : Mr.T.Sundaravadhanam

For Respondents : Ms.D.Farjana Ghoushia
Special Government Pleader
(for R1 to R6)
Mr.R.M.S.Sethuraman (for R7)
Additional Public Prosecutor

ORDER

The writ petition has been filed challenging the order passed by the District Collector/second respondent herein rejecting the request of the petitioner for construction of a church.



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2. The learned counsel appearing for the petitioner would submit that various services have been conducted in the name of Jesus Goes Forwarded Ministries at Kanimadam, Anjugramam Panchayat, Azhagappapuram, Anjugramam Village, Agasteeshwaram Taluk, Kanyakumari District. The place, where the services have been conducted, was originally owned by one Dr.C.Balakrishnan, from whom, the petitioner had purchased 5 cents of land on 07.02.2006 and it has been constructed with an asbestos sheet for carrying on the religious services. To concrete the said building, an application was made before the sixth respondent. By an order dated 04.12.2014, this Court had directed the second respondent herein to consider the representation of the petitioner dated 04.02.2010 as per Rule 6(4) of the Tamil Nadu District Municipality Building Rules, 1972 and pass appropriate orders within a period of eight weeks after giving an opportunity of hearing to the petitioner. Thereafter, the present impugned order had been passed.

3. The learned counsel for the petitioner would contend that the impugned order recites various factors including two orders passed by this Court in two writ petitions, but it does not give any reasons as to why the

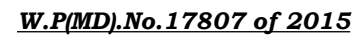


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second respondent rejected the request of the petitioner. The second respondent had simply relied upon the report of the Superintendent of Police, Nagercoil and the Revenue Divisional Officer, Nagercoil, wherein they have not recommended the claim of the petitioner. He would submit that the second respondent being an authority under the Tamil Nadu District Municipality Building Rules, 1972, ought to have passed a detailed order as to why the application filed by the petitioner is liable to be rejected, but had passed such an order to avail the appellate remedy. This order is against all corners of administrative law as it has not assigned any reason whatsoever. Hence, he sought interference of this Court in setting aside the order and remitting the matter back to the second respondent to pass fresh order on merits and in accordance with law.

4. The learned Special Government Pleader would submit that the order passed by the second respondent is well within the four corners of law. The petitioner is carrying on the religious services without permission of the second respondent even as on date. She would further rely upon the report of the Superintendent of Police, Nagercoil, wherein it has been stated that majority of people living in the village are Hindus and RC Christian and



5. The learned Additional Public Prosecutor appearing for the seventh respondent would support the contention of the learned Special Government Pleader and would submit that the seventh respondent has submitted a report that if the petitioner is permitted to appeal, it would lead to law and order problem.

6. I considered the rival submissions made by the learned counsel on either side.



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7. A perusal of the impugned order itself shows that the said order has been made without any reasons assigned whatsoever. It has been repeatedly held that when an authority passes an order, the same shall be supported by sound reasonings. In the present case, the second respondent has narrated the various facts including the orders of this Court in two writ petitions. He had also extracted the reports of the Revenue Divisional Officer, Nagercoil and that of the Superintendent of Police, Nagercoil. However, without independently assigning any reasons, he had rejected the application of the petitioner solely on the basis of the reports filed by the respondents 4 and 7 herein.

8. Therefore, I am of the view that the second respondent has not independently applied his mind while passing the order impugned in this writ petition. Hence, the same is set aside and the matter is remitted back to the file of the second respondent to consider the application of the petitioner afresh and pass appropriate orders by assigning sound reasons whatsoever , on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.



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9. In fine, the Writ Petition is allowed and the impugned order is set aside with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes / No
Index : Yes / No
Rmk

To

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K.KUMARESH BABU, J.

Rmk

Order made in
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