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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.26731 of 2023

Pragathi ... Petitioner

Vs.

1.The Commissioner of Police,
Madurai City,
Madurai.

2.The District Fire Officer,
Fire and Rescue Services,
Madurai District.

3.The Commissioner,
Madurai Corporation,
Madurai. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the third respondent to issue DNO Trade Receipt to the petitioner and consequently directing the first respondent to issue license to run a temporary Cracker Shop at No.35, Ramyapuliyadi, Thimma, Eswari, Kutty Vakaiyara Dharma Trust, Moondrumavadi, K.Pudur, Madurai based on the petitioner's representation dated 03.11.2023.

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For Petitioner : Mr.Subash Babu
Senior Counsel
for M/s.Subash Law Office

For Respondents : Mr.A.Albert James
Government Advocate (Criminal Side)
for R.1

Mr.Siddharthan
Additional Government Pleader for R.2

Mr.K.K.Kannan for R.3

ORDER

Heard the learned Senior Counsel appearing for the writ petitioner, the learned Government Advocate (Criminal Side) appearing for the first respondent, the learned Additional Government Pleader appearing for the second respondent and the learned Standing Counsel appearing for the Madurai Corporation.

2.The petitioner wants this Court to direct the Madurai Corporation to issue DNO trade receipt so that she can obtain license for running a temporary cracker shop at the petition mentioned premises.

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3.When the matter was taken up for hearing, the learned Standing Counsel appearing for the Corporation submitted that since the petition mentioned premises has been granted exemption under Section 87 of the Tamil Nadu Urban Local Bodies Act, 1998, it is not possible for the Corporation to issue the receipt sought for.

4.Section 87(b) of the Act states that the choultries for the occupation of which no rent is charged and choultries the rent charged for the occupation of which is used exclusively for charitable purposes will be exempted from the levy of property tax.

5.Therefore, the test is whether the amount calculated towards rent from the petitioner by the petition mentioned trust is used for charitable purposes. A careful reading of the provision indicates that merely because a building is used for commercial purposes that by itself will not take it out of the purview of Section 87 of the Act. What matters is the purpose for which the rent is used. If the rent collected from the commerical user is put to use exclusively for charitable purposes, the

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building in question can continue to claim exemption from levy of property tax.

6.The learned Senior Counsel draws my attention to the receipt issued for the last year.

7.I direct the third respondent to issue DNO trade receipt to the petitioner today itself. Based on the same, the petitioner can approach the first respondent and it is for the first respondent to consider the petitioner's request for issuance of license to run a temporary shop at the petition mentioned premises. Positive direction is issued only to the third respondent.

8.This writ petition is disposed of accordingly. No costs.

07.11.2023

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

NOTE:Issue Order Copy on 07.11.2023.

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To

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Madurai.

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G.R.SWAMINATHAN, J.

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