



W.P.No.719 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.719 of 2018

and

W.M.P. Nos.883 and 884 of 2018 and 3025 of 2024

Shanthakumari

... Petitioner

Vs

1. The District Collector,
Erode District,
Erode.

2. S.Prabakar IAS
District Collector,
Erode District,
Erode.

3. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
1st Floor, VRV Complex,
167, Bhavani Road,
Perundurai,
Erode District.

4. G.Bharaneeshwaran

5. Ravi

... Respondents



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Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 22.12.2017 having reference Mu.Mu.16555/2017(C-4) passed by the first respondent, the District Collector, Erode District and quash the same and consequently direct the first respondent to prohibit the fourth and fifth respondents as per the Rule 8(b) of the Noise Pollution (Regulation and Control) Rules, 2000, from operating the power loom in the building located at No.10, Palaniyappa 2nd Street, Thavittupalayam, Anthiyur Taluk, Erode District.

For Petitioner : Mr.E.P.Senniyangiri

For Respondents : Mr. S.J.Mohamed Sathik,
Government Advocate (for R1)

Mrs. Shanmugavalli Sekar,
Standing Counsel (for R3)

ORDER

The Writ Petition has been filed challenging the order passed by the first respondent in and by which the request made by the petitioner seeking closure of the power loom unit run by the fourth and fifth respondents, was rejected.



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2. The petitioner is residing at No. 4/1, Palaniyappa 2nd Cross Street, Thavittupalayam, Anthiyur Viilage and Taluk, Erode District. In the said address, there are 12 families residing around the house of the petitioner. The fourth respondent is running the power loom unit with high decimal sound in the residential area and he does not have any permission to operate the power loom unit and he is running the power loom building owned by the fifth respondent. Further, the second respondent is operating the power loom in the area is classified as 'residential area class-I Type-I' where the petitioner resides. Therefore, the petitioner submitted a representation to the third respondent for taking appropriate action. On the strength of the representation submitted by the petitioner, the third respondent requested the Scientific Officer, District Environment Laboratory, Tiruppur to conduct an ambient noise level survey in the vicinity of the fourth respondent's power loom unit. Even then, no action has been taken by the first respondent and as such, the petitioner filed a Writ Petition in W.P.No.25610 of 2017 before this Court seeking appropriate action on the complaint lodged by the petitioner. Thereafter, this Court on 10.10.2017 had directed the first respondent to pass orders on the complaint



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lodge by the petitioner within a period of six weeks from the date of receipt of a copy of that order. The petitioner also lodge a complaint before the jurisdictional Police Station and there was no action on the said complaint. Hence, the petitioner has also filed a Criminal Original Petition in CrI.O.P.No.8883 of 2017 before this Court. Subsequently, the said complaint was enquire and the same was closed.

3. On a perusal of the counter-affidavit filed by the first respondent, it reveals that as directed by the first respondent, the Scientific Officer, District Environment Laboratory, Tiruppur to conduct an ambient noise level survey in the vicinity of the fourth respondent's power loom unit and the complainant's house and to furnish the report and accordingly, the said survey has been conducted on 21.12.2016, it reveals that the noise level is more than the permissible limit of 55 dB morning time and 45dB night time prescribed for residential area in four locations. On the said survey report, a detailed enquiry was conducted by the first respondent consisting the District Environmental Engineer, TNPCB, Perundurai, the Revenue Divisional Officer, Gobichettipalayam, the Tahsildar, Anthiyur, the



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Executive Officer, Town Panchayat, Anthiyur and fourth respondent. In the enquiry, it revealed that the fourth respondent herein has obtained permission from Selection Grade Town Panchayat, Anthiyur to establish a Power Loom unit in the said address and running the business right from the year 1984. Additionally, license fees, professional tax etc. were paid and also the electricity service connection was obtained in the capacity of 10 HP. Therefore, the fourth respondent is running the power loom unit from the year 1984. In the same residential area, there are 156 power looms in 16 units, a Saw Mill and a Coir Factory is also functioning. The Directorate of Town and Country Planning, Salem submitted a report and it reveals that the area where the fourth respondent's power loom unit is being run is a 'Non Classified Area'. There are 80 houses which were assessed for house tax in the said area, close to the power loom unit. Except the petitioner, no one so far lodged any complaint with regard to the high decibel noise and as such, this Court, finds no infirmity or illegality in the order passed by the first respondent and the Writ Petition is devoid of merits.



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4. In the result, the Writ Petition is dismissed. However, the third respondent is directed to monitor the ambient noise level of the power looms, which are running in the petitioner's residential area in accordance with law. Consequently, the connected Miscellaneous Petitions are closed.

No costs.

03.04.2024

Index:Yes/No
Neutral Citation/Yes/No
kv

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