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W.P.No.1636

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 12.10.2023

Delivered on : 08.03.2024

CORAM

THE HON'BLE MRS.JUSTICE J.NISHA BANU

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.16368 of 2023
and W.M.P.No.15745 of 2023

N.Mahalingam

... Petitioner

Vs.

1. The District Collector
Collectorate, Tiruppur District.
- 2.The Chairman
Tamil Nadu Pollution Control Board
No.76, Mount Salai, Guindy, Chennai-32
- 3.The District Environmental Engineer
Tamil Nadu Pollution Control Board
12A, Pollachi By-Pass Road, Palladam, Tiruppur-641 664
4. The Zonal Joint Director
Animal Husbandry Department, Tiruppur
- 5.The President
Village Panchayat, Thungavi, Tiruppur District



6.Arumugham

7.Kumarathal



W.P.No.1636

... Respondents

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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 to 5 to take action and forbear the 6th and 7th respondents herein from constructing the poultry farm, in S.No.230/1, in close proximity to the Residential Area, in accordance with the Environmental Guidelines for Poultry Farms, as notified by the Central Pollution Control Board, and relocate the same to some other area and further direct the respondents to file a status report regarding the same before this court, within a fixed time frame.

For Petitioner : Mr.Harish Kumar

For Respondents : Mr.S.Balamurugan, Govt. Advocate for R1, R4 and R5
Mrs.Shanmugalli sekar for r2 and R3
Mr.M.Purushothaman for R6 and R7
Mrs. R.T.Shyamala, Advocate Commissioner

* * * * *

ORDER

[Order of the Court was made by J. NISHA BANU, J.]

This Writ Petition is filed praying to direct the respondents 1 to 5 to take action and forbear the 6th and 7th respondents herein from constructing the poultry farm, which is close proximity to the Residential Area.



2. It is averred in the writ petition that the petitioner's house is situated in the residential area and next to that, there is an agricultural land belonging to the 6th and 7th respondent. The 6th and 7th respondent performed bhoomi pooja on 27.03.2023 to set up a chicken farm. Based on petitioner's complaint dated 12.04.2023, Tamil Nadu Pollution Control Board inspected the property and directed the 6th and 7th respondents to locate the chicken poultry in accordance with the Environmental Guidelines.

3. According to the petitioner, the said poultry farm is being constructed very close to the Amaravathi Dam Irrigation Canal, PAP Irrigation canal and bore well used for drinking water. Further the said poultry farm construction is located within 500 meters from the residential area and within 100 meters from the drinking water source.

4. It is submitted by the petitioner that poultry farms and its commercial activities construction etc should be strictly in accordance with the Government guidelines and therefore this writ petition is filed to forbear the 6th and 7th respondent from constructing the chicken poultry farm within the limits of residential area.

5. The learned counsel for the petitioner in support of his submissions, relied on the following decisions:-



W.P.No.1636

WEB COPY

(i) Gauri Maulekhi Vs. Union of India and Ors dated 16.09.2020 [National Green Tribunal, Principal Bench, New Delhi]

(ii) Poultry Farmers and Breeders Vs. Union of India dated 16.12.2022 [National Green Tribunal].

(iii) Sundr Vs. Ministry of Environment & Forest & Ors. Dated July 10,2020 [National Green Tribunal]

(iv) M/s.Supreme Poultry Private Limited, Rep. By its Chairman cum Managing Director, P &C Towers, No.140, Perundhurai Road, Erode-638 011 Vs. 1.The District Collector cum Inspector of Panchayats, Karur District and another. [Madurai Bench of Madras High Court dated 03.12.2010].

The learned counsel for the petitioner would submit that in the light of the above settled proposition of law, public health issues and environmental issues involved in Poultry Farms would warrant action.

6. The contesting respondents 6 and 7 filed counter affidavit and submitted that the proposed poultry farm is being constructed after obtaining approval from the 5th respondent Panchayat and got subsidy from Prime Minister's Scheme. On 11.05.2023, an inspection was done by the Health Inspector and Doctors from the 4th respondent and Animal Husbandry Department issued their report on 18.05.2023 stating that except few



deviations, the proposed poultry farm is within the permissible limits. It is further submitted that within 300 feet from writ petitioner's house, Suguna poultry farm is rearing 50,000 chickens per month; Suguna poultry farm is abutting the bund of the Amaravathi Irrigation channel. It is also submitted that the 6th and 7th respondent's poultry farm is about 100 meters away from the Channel which is permissible. A large scale poultry farm namely Anandhi poultry farm, rearing about 12000 chickens per month is situated within 350 feet from writ petitioner's house.

7. The 2nd and 3rd respondents-Tamil Nadu Pollution Control Board filed counter affidavit and submitted that based on the petitioner's complaint, the unit was inspected on 12.04.2023 and it was observed that there are five farm houses located near the poultry farm proposed to be located and the said location is classified as Non-planned area as per DTCP classification. Petitioner's complaint was scrutinised and directed the 6th and 7th respondent to follow the CPCB guidelines. In reply, the 6th and 7th respondents submitted that they got approval from Panchayat and proposed to raise 3500 broiler chicken in 4500 sq.ft. Area and hence will not come under the Pollution Control Board norms.

8. It is further submitted by the 2nd and 3rd respondents that the proposed poultry



farm is proposed to be located nearby five farm houses including the petitioner. There is no water courses within 100 meter from the proposed poultry farm. There is no rural road located about 50 meters away. Poultry sheds are proposed to be located about 10 meters away from farm boundary.

9. The learned counsel for 6th and 7th respondents would submit that the District Environmental Engineer, Tamil Nadu Pollution Control Board, Tiruppur South @Palladam, have given a report stating that the proposed land is not located near the residential zone as per the letter from the BDO and hence the proposed poultry farm does not come under the purview of Tamil Nadu Pollution Control Board Acts Water (P&CP) Act 1974; however, the threshold limit i.e. within 5000 birds will be monitored regularly and ensured in future.

10. In order to find out the status of the construction and the locality in which the construction of Poultry Farm is going on, this court appointed an Advocate Commissioner to conduct inspection and report before this court. Accordingly, Mrs.R.T.Shyamala, learned Advocate Commissioner visited the place of proposed Poultry Farm on 10.09.2023 and filed a detailed report before this court along with Rough Sketch, photos and site visit notes. The Advocate Commissioner, in her report,



has observed as follows:-

WEB COPY

Near the site, a big commercial Poultry Farm by name Suguna Farms is situated; another poultry farm Anandhi Poultry is situated on the southern side of the cart track road. Krishnasamy and Santhi Poultry farm is situated on the other side of the bank of Amaravathi Irrigaion Canal and Suguna Poultry Farm. On the western side of the property of 6th and 7th respondents, there is an irrigation canal by name Amaravathi irrigation canal and the floor of the canal and side bund of the canal is covered with cement. The water will come only if there is rain or overflow from Amaravathi Dam. Further in the area near to the petitioner and the 6th and 7th respondent houses, “Suguna Farm” is there in a large scale and they are rearing more than 50,000 birds and besides that there are other poultry farms also there in that locality.

11. The Advocate Commissioner further found that the entire area is surrounded mainly by coconut groves and farm houses and Wind Mills. Three houses are situated on the western side of the Amaravathi Irrigation Canal. There are several wind mills in that area. The only way to access the site is the cart track leading from Thungavi-Madathukulam Road. The site is situated 1 ½ kms away from the main road leading to Thungavi-Madathukulam Road. The President of Thungavi informed that the area is not a residential zone. The village is situated 1 ½ kms away from the site.



12. It is submitted that a Veterinary Doctor, Animal Husbandary, Thungavi informed that if the area is 1475 sq.ft. Then, 1200 birds can be reared in that building. If it is less than 5000 birds then it will not come under Tamil Nadu Pollution Control Board and and it will be considered as Agricultural Purpose and Government is giving subsidy. "NOC" is not required to start with less than 5000 birds and the building measurement is less than 3.500 sq.feet.

13. The Advocate Commissioner in her report also stated that the only way to access the site is the cart track leading from Thungavi-Madathukulam Road. The site is situated 1 ½ kms away from the main road leading to Thungavi-Madathukulam Road. The Advocate Commissioner in consultation with Assistant Engineer, Tamil Nadu Pollution Control Board suggested that to avoid pollution of the ground water level, usual standard is that in the ground, 15 centimetres gravel to be spread and over that rubber or polythene sheet has to be put and over which the concrete has to be laid. If this was done, then the ground water will not be polluted/affected.

14. Heard Mr.Harish Kumar, learned counsel for the petitioner, Mr.S.Balamurguan, learned Government Advocate for respondents 1, 4 and 5, Mrs.Shanmugavalli Sekhar for respondents 2 and 3, Mr.M.Purushothaman, learned



W.P.No.1636

counsel for respondents 6 and 7 and Mrs.R.T.Shyamala, Advocate Commissioner and perused the entire materials available on records and the Advocate Commissioner report carefully.

15. No doubt, unregulated poultry farming causes pollution of soil and groundwater. However, in the light of inspection report of the Advocate Commissioner and also taking note of the the submissions of the 2nd and 3rd respondents in the counter affidavit filed on behalf of Tamil Nadu Pollution Control Board, would go to show that the poultry farms which are handling 1,00,000 or more birds at a given time in single location need to approach State Pollution Control Board to obtain necessary consent for operation. In the case on hand, 6th and 7th respondents proposed for a poultry farm with 3500 birds in an extent of 4500 square feet area of land and also the proposed land is not located near the residential zone. Further the Advocate Commissioner's report would clearly indicate that the construction for the proposed poultry farm is situated just opposite to the petitioner's land and farm house. On the southern side of the cart track, opposite to the petitioner and 6th and 7th respondents, there is big poultry farm of Suguna, a large scale poultry farm is situated, which is having a capacity of rearing more than 50,000 birds and several sheds there. That apart on the right side of the cart track from Thungavi-Madathukulam Road, there is a poultry farm by name Ananthi



W.P.No.1636

Poultry Farm. Further as could be seen from the materials placed on record, the proposed poultry farm of Respondents 6 and 7 is situated 62.30 meters away from their house and at 75.90 meters distance from the petitioner's house. The proposed poultry farm to Amaravathi irrigation canal is 108.10 meters. There are other poultry farms operating in that area with specific distance and therefore, the petitioner's prayer seeking to forbear the 6th and 7th respondent from constructing the poultry farm in close proximity to the residential area would not arise in this case. In any event, official respondents is required to grant approval for the establishment of the poultry farms after going into the entire aspects relating to poultry farm and the issues relating to the health hazards that may be caused to the people at large as well as to the animals and the degradation of the environment in general. It would be necessary for the 6th and 7th respondents to obtain the consent of the local Village Panchayat as provided under the Tamil Nadu Panchayats Act, 1994 and the Rules framed thereunder.

16. In the light of the foregoing reasonings, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

J.N.B.J., N.M.J.,
08.03.2024

Index : yes/no
Internet : yes/no
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W.P.No.1636

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WEB COPY

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W.P.No.1636 of 2023

J.NISHA BANU, J.

&
N.MALA, J.

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ORDERS IN
W.P.No.16368 of 2023

08.03.2024