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W.P. No. 33642 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. No. 33642 of 2023
and
W.M.P. No. 33485 of 2023**

M.Sivabalan

... Petitioner

-VS-

1. The District Collector,
Thirupur District,
Thirupur.
2. The Additional Director of Panchayat,
Thirupur District,
Thirupur.
3. The Block Development Officer,
Mulanoor Panchayat Union Office,
Mulanoor,
Thirupur District.
4. The Panchayat President,
Ponnivadi Panchayat,
Dharapuram Taluk,
Thirupur District.
5. The Assistant Director of Animal Husbandry,
Dharapuram,
51C, 510, Pollachi Road,
Aruna Nagar,
Dharapuram,
Thirupur District.



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6. Chellamuthu

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the First to Fifth Respondents to take action as against the Sixth Respondent for violating the rules and regulations of Panchayat Act in setting up Poultry Farm and close the Poultry Farm run without licence in S.F. No. 2157/Elugamvalasu Village, Ponnivadi Panchayat, Dharapuram Taluk, Thirupur District on the basis of representation dated 17.10.2023.

For Petitioner : Mr. D.Rajagopal

For Respondents : Mr. V.Ravi,
Special Government Pleader
(for R1 to R5)

Mr. N.Ponraj (for R6)

ORDER

Heard Mr. D.Rajagopal, Learned Counsel for the Petitioner, Mr. V.Ravi, Learned Special Government Pleader appearing for the First to Fifth Respondents, Mr. N.Ponraj, Learned Counsel for the Sixth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner has made a representation dated 18.10.2023 to the First Respondent complaining about the running of poultry farm in S.F. No. 2157/Elugamvalasu Village, Ponnivadi Panchayat, Dharapuram Taluk, Tiruppur District (hereinafter referred to as 'the property' for short) by the Sixth



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Respondent without obtaining necessary licence under the relevant provisions of the Tamil Nadu Panchayats Act, 1994 (hereinafter referred to as 'the Act' for short), but as it did not evoke any response, it has necessitated the filing of this Writ Petition.

3. In this context, it has been pointed out by Learned Counsel for the Sixth Respondent that the Government of Tamil Nadu in its Letter No. 9985/UD4(3)/2018-3 dated 26.02.2016 sent to the Chairman, Broiler Co-ordination Committee, has stated as follows:-

3. In this regard, I am to state that your representation was examined in consultation with Commissioner of the Town and Country Planning and to state that live~stock breeding has been include under the definition of the term 'Agriculture' as per sub~Section (1) of Section 2 of the Tamil Nadu Town and Country Planning Act, 1971. Live~stock breeding includes poultry also. Since, clause (e) of the proviso to sub~Section (13) of Section 2 of the said Act provides that the use of any land for the purpose of agriculture shall not be deemed to involve development of land and therefore obtaining permission for



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constructions of sheds/buildings for the use of poultry under Tamil Nadu Town and Country Planning Act, 1971, is not necessary.

Further, it has been brought to notice that the Hon'ble Supreme Court of India in ***Poultry Farmers and Breeders Association -vs- Union of India*** (Order dated 28.04.2023 in Civil Appeal No. 2480 of 2023) has held as follows:-

One of the submissions raised for consideration is that as per the revised guidelines issued by the Central Pollution Control Board (CPCB) in August 2021 followed in January 2022, the Poultry Farms handling birds above 25,000 in a single location have to obtain consent to establish and operate under the Water (Prevention and Control of Pollution), Act 1974/the Air (Prevention and Control of Pollution) Act 1981, from the respective State/Central Board.

However, in the absence of any further guidelines being issued by the Government/competent authority and in the absence of any fact finding report from the experts available on record, the NGT, on its own, under its order impugned has substituted



the requirement from above 25,000 to above 5,000 and that was circulated by the Government under its guidelines of January, 2022. Counsel submits that in the absence of any expert report being made available, the order passed by the Tribunal in substituting the guidelines of Government of India needs to be relooked by this Court.

Issue notice, returnable in four weeks.

In the meantime, guidelines of January 2022 “8.0 As per the directions of Hon’ble NGT dated 10.12.2021 (O.A. No. 320/2021 : Gauri Maulekhi Vs. Union of India & Ors., poultry farms handling above 5,000 birds at single location shall also obtain consent to establish (CTE) and consent for operate (CTO) under the Water Act, 1974 & Air Act 1981 from State Pollution Control Board/Pollution Control Committee w.e.f. 01.01.2023.” until further orders, shall remain stayed.

It is informed that the said interim order still continues to be in force as on date.

4. That apart, placing reliance on the decision of this Court in ***President, Gangaikondan Panchayat -vs- Chief Engineer, Non-Conventional Energy***



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(NCES), Tamil Nadu Electricity Board, Chennai [(2012) 5 CTC 450], it is vehemently canvassed that there is no notification from the Government of Tamil Nadu specifying running of poultry farm as a purpose which is likely to be offensive or dangerous to human life or health or property for which licence has to be obtained from the Village Panchayat in terms of Section 159 of the Act.

5. The Fifth Respondent has filed Counter-Affidavit dated 14.12.2023 in which it has been stated as follows:-

4. It is submitted that Mr. M.Sivabalan, the Petitioner herein sent a representation to the Hon'ble Chief Minister's Grievance Cell to take action for violating the rules and regulations in setting up Poultry Farm in SF No. 1257/1, Elugamvalasu Village, Ponnivadi Panchayat, Dharapuram Taluk, Tiruppur District and to close the same. The said representation was forwarded to the Zonal Joint Director of Animal Husbandry, Tiruppur for taking necessary action, on 08.11.2023.

5. It is submitted that on receipt of the same, the Joint Director of Animal Husbandry, Tiruppur in his Lr. No. Na. Ka.



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4593/U/ 2023 dated 09.11.2023 directed the Respondent to inspect the said Poultry Farm and to submit a report. Accordingly, this Respondent inspected the said Poultry Farm on 15.11.2023 along with Veterinary Assistant Surgeon, Veterinary Dispensary, Salakadai, Assistant Director, Animal Disease Intelligent Unit, Tiruppur and Veterinary Assistant Surgeon, Animal Diseases Intelligent Unit, Tirppur.

6. It is submitted that during inspection, it was found that Thiru. Chellamuthu, the Sixth Respodnent herein is maintaining Poultry Farm in SF No. 1257/1, Elugamvalasu Village, Ponnivadi Panchayat, Dharapuram Taluk, Tiruppur District for the past two decades and now he is extending the Poultry Farm by setting up another two units. At this stage, the Petitioner has sent representation to take action to stop the function of the said Poultry Farm alleging that there is chance of environmental pollution, water pollution and noise pollution.

7. It is submitted that this Respondent found during inspection that there is 10 meters distance between the



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Petitioner's land and the extended Poultry Farm and there is no violation of any rules. It is further submitted that this Respondent suitably advised the Sixth Respondent not to use the distance of 10 meters in any form and the Sixth Respondent had also accepted to maintain the distance without any hindrance.

8. It is submitted that the Sixth Respondent has excavated a pit for disposal of the dead birds/broken eggs/hatchery waste and hence there is no chance of spreading any unwanted smell and further the Sixth Respondent has taken all measures to control feed mill dust and to control gaseous emissions properly. It is pertinent to submit that there is 300 meters of distance between farm and residential zone and there is no major water source near the new Poultry Farm. A distance of 3.8 km. is being maintained between the National Highways and the Poultry Farm and 3.5 km. is also maintained between the State Highways and the Poultry Farm. It is further submitted that the Sixth Respondent is cleaning the sheds daily by using bleaching powder.

9. It is submitted that since the Farm under construction is



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more than 10 meters away from Farm fencing/Petitioner's land and there were two Poultry Farms are in function for more than twenty years and accordingly the Farm was permitted with the compliance of perimeter fencing with green cloth to prevent feather contamination.

It is submitted that as far as this Respondent is concerned, the Sixth Respondent has not violated any rules and regulations and the Poultry Farm extension has no hindrance to any section. It is submitted that the Petitioner has filed the present Writ Petition without any basis and the allegations leveled against this Respondent are false and hereby denied.

6. Having regard to the aforesaid rival contentions of both sides, in the absence of the Petitioner placing any material to show that the Sixth Respondent does not satisfy the requirements of any provision of law for running poultry farm, it would not be possible for this Court to direct the First to Fifth Respondents to take action against the Sixth Respondent in that regard. It is needless to clarify here that nothing said in this order shall be construed as impeding the concerned authority from taking action against the Sixth Respondent if there is breach of any law committed by him, in accordance with



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In the result, the Writ Petition is disposed with the aforesaid observations.

Consequently, the connected Miscellaneous Petition is closed. No costs.

12.03.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 31.05.2024.

vjt

To

1. The District Collector,
Thirupur District,
Thirupur.
2. The Additional Director of Panchayat,
Thirupur District,
Thirupur.



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P.D. AUDIKESAVALU, J.

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