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W.P. No. 17871 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2024

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

**W.P. No. 17871 of 2017
and
W.M.P. No. 19400 of 2017**

A. Elumalai

... Petitioner

-VS-

1. The Branch Manager,
SIDCO Guindy
Tamil Nadu Small Industrial Development Corporation Ltd.,
Branch Office at Tri-vi-ka Industrial Estate,
Guindy,
Chennai 600 032.

2. The Deputy General Manager – I,
SIDCO Corporate Office,
Tamil Nadu Small Industrial Development Corporation Ltd.,
Branch Office at Tri-vi-ka Industrial Estate,
Guindy,
Chennai 600 032.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, calling for the records relating to the letter in RC No. 467/A/2015 dated 17.04.2017 followed by show cause notice dated 04.07.2017 on the file of the 1st respondent and quash the same and direct the respondents to issue no objection certificate or licence for running



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a Hotel Industry in the name of Hotel Malaiyappa at TS No. 49/P and 51/P, Tri-vi-ka Industrial Estate, Guindy, Chennai 600 032 to the Petitioner.

For Petitioner : Mr. K.Sukumaran

For Respondents : Ms. Sithara Sarangan

ORDER

Heard Mr. K.Sukumaran, Learned Counsel for the Petitioner and Ms. Sithara Sarangan, Learned Counsel appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. According to the Respondent, the land together with building purchased from M/s. Tamilnadu Small Industries Corporation (TANSI), the portion of land conveyed by settlement favouring the Petitioner and a portion in occupation of M/s. Mahindra First Choice Services Limited falling in Town Survey Nos. 49/P and 51/P forms part and parcel of Government Thiru. Vi.Ka. Industrial Estate under the control of the Respondent with a mandate to maintain the industrial homogeneity and industrial complexion of the Industrial Estate. When the Field Engineers of the Respondent inspected that site it was informed to the Petitioner to stop re-construction of the building without getting building plan approval from the Corporation of Chennai, but the Petitioner continued with such re-



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construction without obtaining the building plan approval and even displayed the name board 'Hotel Malaiappa' with intention to run a commercial restaurant without obtaining 'No Objection' Certificate from the Respondent. In that backdrop, the Respondent by Proceedings in Rc. No. 0467/A/2015 dated 23.03.2017 sent a notice to the Petitioner and his father, viz., K.Arumugam, to stop making any further works for running a restaurant, failing which it would be construed as 'unauthorized activity' forcing to initiate cancellation of purchase of Government lands meant for industrial and connected activities.

3. In response, the Petitioner sent a reply stating that he had already requested a permission from the Respondent for altering the existing premises by letters dated 12.10.2015, 29.10.2015 and 02.11.2015, but did not receive any reply despite personal visits to meet the officials to expedite action, in addition to having obtained food, fire and trade licence from the concerned authorities investing huge amounts including by way of loans obtained from banks, and paying regular property and water taxes, electricity dues and maintenance charge to the Respondent and other Governmental Authorities. In such circumstances, it was requested to issue 'No Objection' Certificate for running restaurant in his premises.



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4. The Respondent then sent a reply by Proceedings in RC No.467/A/2015 dated 17.04.2017 expressing inability to grant 'No Objection Certificate' for running a restaurant as it may seriously damage the industrial homogeneity and complexion of industrial estate, and the Petitioner was informed that he may apply for any other suitable industrial or commercial activities, if required, for granting approval of change-in-line of activity. The said order followed by Notice in Rc. No. 467/A/2015 dated 04.07.2017 to show cause why action should not be taken to initiate the cancellation of the purchase of Government lands meant for industrial or commercial activities, are challenged in this Writ Petition.

5. The Respondent has been entrusted as the agency of the State to regulate planned industrial development across the State in earmarked areas in public interest taking into consideration relevant aspects, such as, public safety, health hazards, cleanliness, pollution control, etc., It is not in dispute that the land in occupation of the Petitioner forms within the industrial area regulated by the Respondent, who has to maintain the industrial homogeneity and industrial complexion of the industrial estate. In that backdrop, while declining to permit the Petitioner to run a commercial restaurant, the Respondent has offered to the Petitioner that he may apply for any other permissible change-in-line of activity



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and has not created any absolute bar for utilizing the land. Such *bonafide* decision taken by the Respondent cannot be faulted to privately benefit the Petitioner at the cost of public interest, which is of paramount importance.

6. Viewed from that perspective, there does not appear to be any infirmity in the decision-making process of the Respondent as reflected in the impugned orders warranting interference by this Court in the exercise of discretionary powers of judicial review under Article 226 of the Constitution.

In the result, the Writ Petition, which is devoid of merits, is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

23.01.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 24.05.2024.

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To

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P.D. AUDIKESAVALU, J.

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