



W.P.(MD).No.1682 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2024

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.1682 of 2024
and
W.M.P(MD)No.1712 of 2024

K.Dharmaraj

... Petitioner

vs.

1.The District Collector,
Tirunelveli District.

2.The Commissioner,
Tirunelveli Corporation,
Tirunelveli.

3.The Divisional Engineer,
Highways Department,
Tirunelveli – 2.

4.The Tirunelveli District Cooperative
Milk Producers Union Ltd.,
Rep. by its General Manager,
Tirunelveli -7.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to allow the petitioner to run Aavin Milk Parlour situated in Highways land in KM 3/2 (Right Side) Bye Pass Road, Tirunelveli in the light of the



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order passed by this Hon'ble Court in W.P(MD)No.4287 of 2015, dated 21.08.2023.

For Petitioner : Mr.M.Perumal
For Respondents : Mrs.K.Christy Theboral,
Additional Government Pleader

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents to allow the petitioner to run Aavin Milk Parlour situated at Highways land in KM 3/2 (Right Side) Bye Pass Road, Tirunelveli in the light of the order passed by this Hon'ble Court in W.P(MD)No.4287 of 2015, dated 21.08.2023.

2. The case of the petitioner is that he is residing in Tirunelveli Town and running Aavin Parlour after getting licence from the competent authority concerned in Highways land in KM 3/2(Right Side), Bye pass Road, Tirunelveli since 2011. Earlier, the respondents without issuing any notice to the petitioner, tried to evict the petitioner from the said place. Therefore, the petitioner filed W.P(MD)No.4287 of 2015, seeking for a direction to allow the petitioner to run the Aavin Parlour. In the said writ petition, this Court granted interim order and directed the petitioner to deposit a sum of Rs.50,000/- to the fourth respondent.



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Pursuant to said order, the petitioner has also deposited the said amount. Subsequently, when the said writ petition came up for final hearing, this Court disposed of the writ petition on 21.08.2023 and directed the petitioner to pay a sum of Rs.5,000/- to the fourth respondent within a period of seven days. The said amount has also been paid by the petitioner. Even thereafter, without following due process of law and without issuing any notice to the petitioner, the second respondent instructed the petitioner to vacate the Aavin Parlour. Hence, the petitioner has made a representation to the respondents on 19.01.2024 requesting them not to evict the petitioner. However, no action has been taken by the respondents till date. Hence, the petitioner has filed this writ petition with the aforesaid prayer.

3. The learned Additional Government Pleader appearing for the respondents, on instructions, would submit that originally the petitioner was given licence to run the parlour when the road was in existence as a two-lane road. Thereafter, the Government took a decision to widen the said road. Therefore, the petitioner was asked to vacate the parlour.



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4. The learned Additional Government Pleader has also produced the Government Order in G.O(Ms)No.191/Highways and Minor Ports(HF2) Department, dated 29.09.2022. As per the said G.O., for widening and strengthening of Roads, for the construction of bye-passes and high level bridges, for the improvement of roads, road safety, construction of culverts and bridges under Comprehensive Road Infrastructure Development Programme(CRIDP) for the year 2022-2023, a sum of Rs.5,581.80 Crores, is sanctioned.

5. According to the learned Additional Government Pleader, a sum of Rs.5100.00 lakhs has been sanctioned for widening from Two Lane with Paved Shoulders to Four Lane and Strengthening at KM $\frac{1}{4}$ – 3/369, 4/071 – 4/6, 5/5 -7/4 of Tirunelveli Bypass Road, including CD works and Centre Median and it is the Highways in which the petitioner was running the Parlour.

6. However, the learned counsel appearing for the petitioner would submit that in front of the petitioner's parlour, rain water harvesting channel is there and only beyond that, he kept the booth and therefore,



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there will not be any disturbance caused while laying the road.

7. In reply, the learned Additional Government Pleader would submit that as this is a two lane road, the same has to be widened and they have to remove all the channels and thereafter, they will lay a four lane road. At this stage, definitely the petitioner cannot be accommodated.

8. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

9. This Court, in the earlier writ petition in W.P(MD)No.4287 of 2015, vide order dated 21.08.2023, made it clear that till the widening works are taken up, the petitioner can run the shop. Relevant portion of the said order reads as follows:

“5. Till the widening works are actually taken up, the petitioner can run the shop. The petitioner will not be given any fresh notice. The learned Special Government Pleader states that the widening works may be taken up



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any time. Thus the petitioner may not be able to continue his business in the petition-mentioned site any further. The first respondent shall not make any further claim on the petitioner regarding arrears of rent. The Highways Department also need not issue any fresh notice for evicting the petitioner.”

10. As it is seen from the records produced by the respondents that work order has been issued for laying of road, the petitioner cannot seek permission to run the shop. Further, the licence of the petitioner has not been renewed. In such circumstances, the petitioner cannot seek for the claim made by him. It is left to the petitioner to approach the official concerned for allotment of alternative site if any.

11. With the above observations, this writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

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Index:Yes/No
NCC:Yes/No
PM



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V.BHAVANI SUBBAROYAN,J.

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