



W.P(MD)No.4644 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.4644 of 2020

and

W.M.P.(MD)Nos.4005, 4006 and 4008 of 2020

R.Radhakrishnan

... Petitioner

Vs.

The Commissioner,
Madurai Corporation,
Aringar Anna Maaligai,
Madurai – 2

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Na.Ka.No.MaNa2/10629/19, Na.Ka.No.WMP(MD) No.9552 of 2019 dated 29.02.2020 on the file of the respondent and quash the same as illegal and consequently for a direction, directing the respondent to dispose of the application preferred by the petitioner dated 02.03.2020 in the light of the order passed in WP(MD) No.7463 of 2018 dated 16.07.2019.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mr.S.Vinayak,
Standing Counsel.



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ORDER

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Heard the learned counsel on either side.

2.The petitioner is running a tiny industrial unit at the petition mentioned premise. It is falling within Madurai Corporation limits. One Maheswari filed W.P.(MD)No.7463 of 2018 for directing the authorities to take effective steps to stop running of the industrial units in Tagore Nagar in Sellur. The writ petition was disposed of by a learned Judge of this Court on 16.07.2019 in the following terms:-

“25.In that view of the matter, this Court is inclined to pass the following directions, in these two writ petitions:-

“(i) that the private respondent in W.P(MD).No. 7463 of 2018 i.e., the seventh respondent, who is the petitioner in W.P(MD).No.13865 of 2019 shall give an application to the respondent Corporation seeking necessary permission/license under Section 361(4) of 17 the Madurai City Municipal Corporation Act, 1971, within a period of two weeks from the date of receipt of a copy of this order and on receipt of such application from the seventh respondent/petitioner in W.P(MD).No. 13865 of 2019, the same shall be decided by the respondent corporation within a period of three months thereafter and accordingly, orders to be passed under Sub-



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Section 4 of Section 361 of the Act, either to grant permission sought for or to refuse the permission ;

(ii) Once such permission is granted, the seventh respondent/petitioner in W.P(MD).No.13865 of 2019 can continue to run the industry in that locality, where it is already located and once such permission is rejected, the said industry has to be shifted to some other suitable place ;

(iii) Apart from this, the respondent Corporation is directed to instruct the other industries, which have been pointed out by the inspection team as reflected in the report of the second respondent, located in that locality, to make such similar applications under Section 361 of the Madurai City Municipal Corporation Act and in those cases also, after getting an application within a period of two weeks from the date of such instructive information given, the respondent Corporation have to decide the respective application to be filed by those industries, within a period of three months thereafter and running of those industries also would depend upon the decision to be taken by the Corporation and such an application shall be filed by each of such industry within the time frame as stipulated above ;

(iv) In view of the aforesaid directions issued, the impugned order made in W.P(MD).No.13865 of 2019, dated 25.03.2019 by the City Health Officer, Corporation of Madurai, shall not be given effect to.

(v) In view of the said impugned order dated 25.03.2019 in W.P(MD).No.13865 of 2019 is kept in abeyance, the industry run by the petitioner in W.P(MD).No.13865 of 2019, who is the seventh respondent in W.P(MD).No.7463 of 2018 can also be permitted to run, till the decision, as indicated above, is taken by



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the respondent Corporation in the application to be submitted by the petitioner in W.P(MD).No.13865 of 2019 under Section 361 of the Act.

(vi) If the respondent Corporation ultimately decide to grant permission to any of these industries including the industries of the private respondents, conditions can be imposed, which includes the conditions with regard to the timings of the industry as to from which hour to which hour the industry can run. However, till such an imposition of condition, during the interregnum i.e., till the decision taken by the respondent Corporation, the industry of the seventh respondent in W.P(MD).No.7463 of 2018 and all other industries mentioned in the report of the second respondent, shall only be permitted to run between 09.00 a.m., and 05.00 p.m.,.

(vii) These directions shall be scrupulously followed by the parties concerned in these writ petitions and after having decided these issues, as indicated above, the respondent/Madurai Corporation shall file compliance report before this Court on 02.12.2019.”

3.The petitioner's case is that an application was submitted for grant of license. However, the corporation without taking a decision on the petitioner's representation chose to issue the impugned notice calling upon the petitioner to remove the machineries, if the petitioner has not obtained license within the time line specified in the notice. Challenging the same, this writ petition came to be filed.



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4.The learned standing counsel for the corporation would point out that the petitioner was expected to submit a formal application for grant of license. Instead of doing so, a mere representation has been sent.

5.I do not want to go into such technical issue. Section 102 of the Tamil Nadu Urban Local Bodies Act, 1998 is as follows:-

“102. Grant of licence.—(1) No person shall carry on any trade or business, in any place whether public or private within the municipal limit without a licence granted by the Commissioner subject to such terms and conditions [and for such period not exceeding three years having regard to the nature of trade or business, as may be prescribed. Such licence may be renewed for a period not exceeding the period for which it was granted].

(2) Every application for the licence shall be made to the Commissioner in such form and in such manner and accompanied by such fee, as may be prescribed.

(3) On receipt of such application, the Commissioner shall, if the application is in order, grant licence:

Provided that the Commissioner may inspect the place in which the trade or business is to be carried, if considered necessary:

Provided further that no application for grant of licence shall be refused without giving a reasonable opportunity of being heard:

Provided also that if the application is not disposed of within a period of sixty days from the date of its receipt, the licence applied therein shall be deemed to have been granted on expiry of the said period.



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Explanation.- For the purpose of this Chapter, the expression ‘trade or business’ shall mean any category of shop, establishment, factory or industry, as may be notified by the government, from time to time.”

6.The aforesaid provision is sweepingly worded and it would encompass all kinds of business activities. Therefore, the petitioner will have to necessarily obtain license. The petitioner is permitted to submit a fresh application under the aforesaid provision. The petitioner through his counsel undertakes to file such an application within a period of ten days from the date of receipt of a copy of this order. The application shall be dealt with by the Madurai Corporation on merits and in accordance with law within a period of sixty days from the date of receipt of application from the petitioner. I leave open the contentions of both parties. Since Section 102 of the Tamil Nadu Urban Local Bodies Act, 1998 has a self working mechanism, this writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No
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G.R.SWAMINATHAN, J.

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