



W.P.(MD)No.4879 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2024

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CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P.(MD)No.4879 of 2024

and

W.M.P.(MD)Nos.4687 & 4688 of 2024

N.Sankaralingam

: Petitioner

Vs.

The Commissioner,
Tenkasi Municipality,
Tenkasi,
Tenkasi District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records of the impugned order of the respondent in Notice No. 1/2024 dated 31.01.2024 and quash the same as illegal and consequently direct the respondent to consider the revised appeal plan submitted by the petitioner on 04.03.2015 in accordance with law within the time stipulated by this Court.



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For Petitioner : Mr.M.Kannan
For Respondent : Mr.Aathimoolapandian
Standing Counsel

O R D E R

[Order of the Court was made by D.KRISHNAKUMAR, J.]

The present Writ Petition has been filed seeking to quash the impugned order of the respondent in Notice No.1/2024 dated 31.01.2024 and for a consequential direction to the respondent to consider the revised appeal plan submitted by the petitioner on 04.03.2015 in accordance with law.

2.Heard Mr.M.Kannan, learned Counsel appearing for the petitioner and Mr.Aathimoolapandian, learned Standing Counsel appearing for the respondent.

3.The learned Counsel for the petitioner submitted that one Subbiah Chettiar's son filed a writ petition in W.P.(MD)No. 12645 of 2013 and this Court by order dated 26.11.2013 directed the respondent to consider the representation of the petitioner therein based on the notice issued under Section 205 of the District Municipalities Act and accordingly directed the respondent to proceed with the enquiry by affording opportunity to the parties within a period of twelve [12] weeks.



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4.Thereafter, the petitioner filed a Writ Petition before the Division Bench of this Court in W.P.(MD)No.16248 of 2015, challenging the order of rejection of the rectification plan approval submitted by the petitioner. This Court by order dated 03.08.2017, allowed the said writ petition with a direction to the Commissioner, Tenkasi Municipality to decide the issue. Thereafter, the respondent has passed the impugned order dated 31.01.2024 for which the petitioner has sent his reply / explanation dated 11.02.2024 and the said explanation is still pending consideration. Hence, the present Writ Petition has been filed by the petitioner.

5.The learned Counsel for the respondent Municipality strongly objected to the same and submitted that the present writ petition is not maintainable because in the earlier writ petition filed by the petitioner, this Court has directed the respondent to enquire into the deviations in the construction of the said building which is contrary to the approval plan and the said enquiry is now in progress. Based on that, the impugned show cause notice has been issued and the petitioner immediately after submitting his explanation has filed the present writ petition.

6.Since earlier there is an order by this Court to the Commissioner of Tenkasi Municipality to proceed with the enquiry



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and since it is stated that the said enquiry is in progress and the petitioner has submitted his explanations, this Court is of the view that the aforesaid explanation submitted by the petitioner has to be considered by the respondent and appropriate orders are to be passed in the enquiry proceedings.

7. In view of the above, this Court directs the respondent to consider the explanation submitted by the petitioner dated 11.02.2024 and to pass appropriate orders in both the earlier enquiry proceedings as well as the explanation dated 11.02.2024, after providing opportunity to the parties concerned. Further, already this Court has fixed the time limit. If necessary, the respondent shall approach this Court for extension of time.

8. With the above direction, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K.J.] & [P.D.B.J.]

04.03.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR



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To
The Commissioner,
Tenkasi Municipality,
Tenkasi,
Tenkasi District.



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D.KRISHNAKUMAR, J.

and

P.DHANABAL, J.

MR

ORDER MADE IN

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04.03.2024