



W.P.(MD).No.5612 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2024

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

W.P.(MD).No.5612 of 2024

Ma.Vetrivel

... Petitioner

Vs.

1.The District Collector,
Thanjavur District,
Thanjavur.

2.The Commissioner,
Thanjavur Municipal Corporation,
Thanjavur.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to accord approval of location of permanent cinema on the application of the petitioner dated 15.11.2023 without waiting for the no objection certificate from the 2nd respondent on the proceedings of the 1st respondent in Na.Ka.No.70806/2023/E2 dated 27.11.2023 within a time frame fixed by this Court.

For Petitioner	: Mr.T.Antony Arulraj
For R-1	: Mr.M.Lingadurai Special Government Pleader
For R-2	: Mr.N.Dilip Kumar Standing Counsel



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ORDER

Heard the learned counsels on either side.

2. The petitioner applied to the first respondent for approval of location of permanent cinema in the petition mentioned site. As per the statutory requirement, the first respondent called for objections from the second respondent. However, the second respondent has not responded to the same till date, which has led to the filing of this Writ Petition.

3. The learned counsel appearing for the petitioner submits that the first respondent must accord approval without waiting for the No Objection Certificate from the second respondent.

4. This Court cannot at the very first instance call upon the statutory authority to waive the statutory requirement. It is seen that the first respondent had sent a communication dated 27.11.2023, calling upon the second respondent to pass a resolution and offer their objections, if any. It is unfortunate that even though full four months have elapsed, the second respondent had not responded.



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5. I can understand if the construction is to come up on any private site belonging to the petitioner. But, it is not so. The site belongs to the Thanjavur Municipal Corporation. It had entered into lease agreement with the petitioner on 10.11.2023. Possession was handed over to the petitioner on the same day. The petitioner was selected as a lessee in a tender process. The petitioner had remitted a sum of Rs.5.5 Crores. When such a heavy investment has been made by the petitioner, it is not appropriate on the part of the second respondent to sit over an application of this nature. The second respondent is directed to respond immediately to the communication issued by the first respondent dated 27.11.2023, or at any rate within a period of ten (10) days from the date of receipt of a copy of this order.

6. It is not necessary that the first respondent should feel bound by the stand that may be taken by the second respondent. The first respondent shall take into account all the relevant factors, namely,

- a) The site belongs to the Corporation,
- b) Possession was given to the petitioner only by the Corporation,
- c) An appropriate lease agreement had been entered into by the petitioner,
- d) The petitioner had deposited a sum of Rs.5.5 Crores with the second respondent and



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e)The petitioner has made a substantial investment to the tune of Rs.8 Crores.

All these aspects should be borne in mind and an appropriate order shall be passed by the first respondent in accordance with law within a period of three (3) weeks thereafter. If the second respondent does not respond as mandated above, the first respondent shall not wait any further.

7. The learned Standing Counsel for the second respondent points out that since the Model Code of Conduct has come into force, council cannot be convened. He points out that the objection to be submitted by the second respondent will have to be forwarded along with the resolution to be passed by the Corporation Council. It is stated that till 19.04.2024, there is no possibility of convening the Council. This situation is entirely the own making of the second respondent. Therefore, for this procedural and technical difficulty, the petitioner cannot be made to suffer. The Commissioner, Thanjavur Municipal Corporation shall offer a response and that would be considered as proper compliance of the statutory requirement.



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8. This Writ Petition is disposed of accordingly. There shall be no order as to costs.

27.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm

Note: Issue order copy by 28.03.2024

To

1.The District Collector,
Thanjavur District,
Thanjavur.

2.The Commissioner,
Thanjavur Municipal Corporation,
Thanjavur.



WEB COPY



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G.R.SWAMINATHAN, J.

Lm

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