



W.P(MD)No.10039 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 13.06.2024

Delivered on : 08.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.10039 of 2021

and

W.M.P(MD)Nos.7751 and 7753 of 2021

Majitha Beevi

: Petitioner

Vs.

- 1.The Assistant Director of Town Panchayat,
Kanyakumari District, Kanyakumari.
- 2.The Executive Officer,
Thiruvithancode Town Panchayat,
Kanyakumari.
- 3.The Deputy Director,
Public Health Department,
Nagercoil, Kanyakumari.
- 4.The Assistant Director,
Tamil Nadu Pollution Control Board,
Nagercoil, Kanyakumari.
- 5.The Assistant District Fire Officer,
Fire Service and Rescue Department,
Nagercoil, Kanyakumari.



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6.The Inspector of Police,
Thuckalay Police Station,
Kanyakumari.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the proceedings of the second respondent in Na.ka.No.679/2019, dated 11.05.2021 and quash the same as illegal and further direct the second respondent to grand license to run the petitioner's flour mill namely “Bismi Flour Mill” in second respondent panchayat as expeditiously as possible within the period as prescribed by this Court.

For Petitioner : Mr.R.L.Dilip Pandian,
for Mr.P.Samuel Gunasingh

For Respondents : Mr.M.Prakash,
Additional Government Pleader,
for R1, R3, R4 and R5.

: Mr.A.K.Manikkam, for R2.

: Mrs.M.Aasha.
Government Advocate (Criminal Side), for R6.

ORDER

The Writ Petition is directed against the notice, dated 11.05.2021 issued by the second respondent and for direction to the second respondent to grant license to run the petitioner's flour mill namely “Bismi Flour Mill”.



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2. The petitioner's case is that she has been running the flour mill in the name and style of “Bismi Flour Mill” at 13/54B1, Rajapaathai Street, Valluvar Junction, Thiruvithancode, Thuckalay, Kanyakumari District; that the petitioner is doing the work of processing the raw materials brought by the customers; that after getting prior building plan approval from the second respondent and after getting necessary certificate from the Food Safety and Standards Department, the petitioner has been running the flour mill from 2019 onwards; that the petitioner has also enrolled her mill as a Micro Enterprise and obtained Udhayog Aadhar No.TN0A0015938 from the Micro Small Medium Enterprises Department; that the petitioner has been paying commercial tax and electricity consumption charges as commercial building; that the second respondent on the basis of the complaint given by one Kumaradoss had issued a notice, dated 22.11.2019, directing the petitioner to obtain no objection certificate from the respondents 3 to 5; that though the petitioner had approached the respective departments seeking no objection certificate to comply with the requirements of the second respondent, they had not even accepted the petitioner's application stating that it is not necessary for the flour mill; that the petitioner has given a detailed representation, dated 14.05.2020 to the third respondent, but the third respondent had sought for no objection from the respondents 4



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and 5; that the petitioner has also given a representation to the second respondent, dated 20.11.2020, but the second respondent without considering the petitioner's contentions has issued the impugned notice, dated 11.05.2021 to stop the flour mill till production of no objection certificate sought for by the second respondent and that therefore, the petitioner was constrained to file the present writ petition.

3. The second respondent has filed a counter statement stating that the petitioner was given building approval for dwelling house; that the petitioner instead of using the building for dwelling purpose, has started to run a flour mill; that a local resident by name Kumaradoss has made a complaint, dated 04.11.2019 stating that the said flour mill is hazardous to the residents of the said area; that the second respondent has sent a notice to the petitioner, dated 22.11.2019 instructing him to produce the mandatory certificate apart from getting no objection from the residents of the said locality; that the second respondent has taken to the notice of the third respondent and the third respondent has sent a letter, dated 24.03.2020 informing that the flour mill can be run after obtaining no objection certificate from Fire service and rescue department and Pollution control board apart from producing building plan in three copies with building stability certificate and no objection obtained from



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the residents around the flour mill; that the petitioner without producing the certificates has been running the flour mill and hence, the second respondent has sent a notice, dated 11.05.2021; that the petitioner could not proceed to run the said flour without production of the mandatory certificates; that the second respondent has only issued a notice affording the petitioner an opportunity to produce the certificates and that the petitioner be granted license to run the flour mill only after the production of mandatory certificates from the respective statutory authorities .

4. The third respondent has filed a counter affidavit stating that for obtaining no objection certificate from the Health Department, proposal has to be submitted through the concerned local body along with no objection certificate obtained from the nearby residents residing within 250 feet of the flour mill and that since the petitioner had directly applied for no objection certificate from the third respondent, the same was returned informing the petitioner to apply through the second respondent.

5. It is not in dispute that the petitioner in the building owned by him has been running a flour mill from 2019 onwards. According to the petitioner, she had obtained necessary certificate from the Food Safety and Standards



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Department and also enrolled as a member in the Micro Small Medium Enterprises Department. But admittedly, the petitioner has not obtained necessary license from the second respondent panchayat. According to the second respondent, the petitioner has to produce no objection certificate from the respondents 3 to 5 and also no objections from the residents of the said locality and only thereafter, the second respondent has to consider the requisition for granting license.

6. It is the specific case of the third respondent for giving no objection certificate from the third respondent, the petitioner has to apply through the local body i.e., the second respondent along with no objection certificate obtained from the nearby residents residing within 250 feet of flour mill. But the main contention of the petitioner is that in pursuance of the notice issued by the second respondent, dated 22.11.2019, she approached the concerned departments, but they have not even chosen to receive the application on the ground that such certificates are not necessary to run the flour mill.

7. It is not the case of the petitioner that she has made applications requesting for no objection certificate from the concerned departments and the same were returned as such certificates are not necessary to run the flour mill.



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WEB COPY 8. The learned Additional Government Pleader appearing for the second respondent would submit that similarly placed persons had already obtained such no objection certificates from the respondents 3 to 5 and only on that basis, license was issued by the second respondent.

9. At this juncture, the learned counsel for the petitioner would submit that the respondents 3 to 5 may be directed to give no objection certificate so as to enable her to approach the second respondent for getting necessary license to run the flour mill.

10. As already pointed out, for getting no objection from the third respondent, as per the procedure stated in the counter affidavit of the third respondent, the petitioner has to apply through the second respondent along with no objection certificate from the residents of that locality. It is seen from the communication of the third respondent sent to the second respondent, they have sought for the certificates from Fire service and rescue department, Pollution control board, building plan three copies, building stability certificate and no objection of the residents of the locality.



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11. As already pointed out, the second respondent in their counter affidavit has specifically observed that in case of production of the mandatory certificates, they will grant license to run the flour mill.

12. Considering the above facts and circumstances of the case and taking note of the stand of the respondents 2 and 3, the petitioner is directed to apply to the respondents 4 and 5 for no objection certificate and on receipt of the application, the respondents 4 and 5 are directed to consider the same and issue the certificates within two weeks from the date of receipt of their application and the petitioner has to then apply to the third respondent through the second respondent with necessary documents as required and the third respondent is directed to consider the same and pass orders within two weeks from the date of receipt of the application from the second respondent and thereafter, the second respondent is directed to consider the requisition for license and pass orders within a period of two weeks from the date of receipt of application from the third respondent. In case, if the petitioner has not applied as directed above, the second respondent is at liberty to take necessary action under the Tamil Nadu Municipalities Act, 1920 as stated in the impugned notice, dated 11.05.2021.



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WEB COPY 13. With the above directions, the Writ Petition is disposed of.

Consequently, connected Miscellaneous Petitions are closed. No costs.

08.07.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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To

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K.MURALI SHANKAR, J

DAS

Pre-delivery order made in
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Dated : 08.07.2024