



W.P.(MD)No.9674 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9674 of 2024

and

W.M.P.(MD)No.8754 of 2024

S.Shaliha Banu

... Petitioner

Vs.

The Commissioner,
Tirunelveli Corporation,
Tirunelveli.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd respondent to grant sanction / approval for the residential layout approved by the 1st respondent vide layout approval number in L.P/TLPA.NO.SWP/08/2024 dated 24.01.2024 in terms of sub clauses (2) (4) and (6) of Section 120 of the Tamil Nadu Urban Local Bodies Act, 1998 and permit the petitioner to pay the necessary charges towards the same forthwith.

For Petitioner : Mr.Ajmal Khan, Senior Counsel,
For M/s.Ajmal Associates.

For Respondent : Mrs.M.Antiha,
Standing Counsel.



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ORDER

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Heard the learned senior counsel for the writ petitioner and the learned standing counsel for Tirunelveli Corporation.

2.The writ petitioner applied to the Director of Town and Country Planning for promoting the petition mentioned layout. It is seen that approval was granted by the competent authority under the Tamil Nadu Town and Country Planning Act on 24.01.2024. The learned senior counsel submits that after technical approval is obtained from the Town and Country Planning Department, formal approval is required from the local body also. The petitioner submitted the application before the respondent corporation as early as on 01.02.2024. The petitioner's grievance is that even though 60 days have elapsed therefrom, sanction is not forthcoming. That led to the filing of this writ petition.

3.When the matter was taken up for hearing, learned standing counsel for the corporation submitted that on account of the proclamation of model code of conduct, the petitioner's application could not be taken up for disposal by the council.



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4.I do not find any substance in this objection. This is for more than one reason. The model code of conduct came into force only in the second week of March 2024. The petitioner's application has been pending since 01.02.2024. That apart, as rightly pointed out by the learned senior counsel for the petitioner, the model code of conduct cannot come in the way of carrying out even routine functions. Model code of conduct will apply only in respect of those administrative and official actions and measures that will have possible impact on the voting pattern or choice. The case on hand has nothing to do with the model code of conduct. I, therefore, direct the respondent to grant approval to the petitioner's application withing six weeks from the date of receipt of a copy of this order, unless the respondent notices that the petitioner's case will fall within Section 120(5) of the Tamil Nadu Urban Local Bodies Act, 1998. If within the aforesaid period, the respondent is of the tentative view that the petitioner's case will fall within the mischief of the aforesaid provision, the petitioner will be put on notice before passing any final order.

5.This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

29.04.2024

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

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