



W.P(MD)No.11447 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.11447 of 2020

and

W.M.P.(MD)No.10009 of 2020

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... Petitioner

Vs.

- 1.The District Collector,
Kanyakumari District,
At Nagercoil.
- 2.The District Revenue Officer,
Nagercoil,
Kanyakumari District.
- 3.The Director (Planning),
District Rural Development Scheme,
Nagercoil, Kanyakumari District.
- 4.The Assistant Director of Panchayat,
(Village Panchayat), Nagercoil,
Kanyakumari District.
- 5.The Deputy Director of Health Services,
Nagercoil, Kanyakumari District.
- 6.The Revenue Divisional Officer,
Padmanabhapuram, Thuckalai,
Kanyakumari District.



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7.The Block Development Officer,
(Village Panchayat),
Melpuram Panchayat Union,
Melpuram, Pacode (Post),
Kanyakumari District.

8.The Block Health Supervisor,
Government Primary Health Centre,
Edaicode, Kanyakumari District.

9.The President,
Manjalumoodu Village Panchayat,
Melpuram Panchayat Union,
Kanyakumari District.

... Respondents

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 passed by the 9th respondent by his proceedings No.1/2020 dated 02.09.2020 and to quash the same and consequently direct the 9th respondent not to interfere in the peaceful running of the petitioner's Pig farm at Ry.Survey No.504/2 of Arumanai village in Manjalumoodu Village Panchayat, Charoadu Post, Vilavancode Taluk, Kanyakumari District.

For Petitioner : Mr.M.R.Sreenivasan

For Respondents : Mr.M.Lingadurai,
Spl. Government Pleader for R1 to R8.
Mr.N.Dilipkumar for R9.



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ORDER

Heard the learned counsel on either side.

2.The petitioner is running a pig farm at the petition mentioned site. The ninth respondent called upon the petitioner to close the farm. Challenging the said notice dated 02.09.2020, this writ petition came to be filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. The contention of the petitioner's counsel is two fold:- (a) The petitioner need not take any license from the local body. (b) The pig farm is being run in an unobjectionable site. The learned counsel also took me through the scheme set out in Tamil Nadu Panchayats (Licensing of Pigs and Destruction of Unlicensed or Infected Pigs) Rules 1996 and contended that in the absence of notification under Rule 3, coercive action cannot be taken by the local body. He called upon this Court to grant relief as prayed for.



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4.The learned Special Government Pleader as well as the learned standing counsel for the local body submitted that the reading and understanding of the statutory rules as projected by the learned counsel for the petitioner is not correct. The learned standing counsel submitted that every owner of a pig is bound to obtain license for each of the pigs. He also relied on a catena of decisions rendered by various Benches. The respondents called upon this Court to dismiss the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. In exercise of powers conferred by Clause 32 of Sub Section 2 of Section 242 of Tamil Nadu Panchayats Act, 1994, the Tamil Nadu Panchayats (Licensing of Pigs and Destruction of Unlicensed or Infected Pigs) Rules, 1996 has been issued. The material provisions are Rules 3, 4 and 5. They read as follows:-

“3. Issue of public notice. - Every panchayat may, and if so directed by the Collector, shall publish a notice in the Official Gazette of the district in English and Tamil that unlicensed or infected pigs staying within the panchayat limits specified in the notice will be destroyed after the date specified in such notice.



4. Taking of licence. - *When a notice under rule 3 has been published, the owner or custodian of every pig within the limits of the panchayat shall, within fifteen days from the date of such publication of notice take out from the Executive authority of the panchayat, a licence badge showing the following particulars and such other particulars, if any, as the Collector may prescribe, on payment of a licence fee not exceeding five rupees per pig for the half year in which such notice was given.*

(1) Name of the panchayat (in a abbreviated form if the name is too long);

(2) Number of the licence issued; and

(3) Particulars of the year and half year, for which the licence is issued.

The badge shall be fixed to any one of the ear of the pig for the purpose of inspection and verification by the Executive Authority of the panchayat or any person authorised by him:

Provided that the Collector may, for special reasons, extend the period within which a licence shall be taken from the Executive Authority after the publication of the notice.

5. Application for licence. - *Within fifteen days from the commencement of every succeeding half year or within such reduced period as the Collector may fix for special reasons, the owner or custodian of every pig shall apply to the Executive Authority for the grant or renewal of the licence on payment of the fee specified in rule 4.”*



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6.A literal reading of the rules would definitely give an impression that only after issuance of notice under Rule 3 in the district official gazette, the owner of a pig is obliged to apply for a license and not till then. The corollary of this argument is that if no such notice as envisaged under Rule 3 has been published, the question of taking license will not arise at all. It is in this view of the matter, the learned counsel for the petitioner contended that the petitioner is entitled to run the pig farm even without obtaining license.

7.Though this contention is attractive, I am not swayed by the same. As rightly pointed out by the learned standing counsel for the local body, any statutory scheme must be read as a whole and that no rule should be read in isolation. Rule 5 stipulates that the owner of custodian of every pig shall apply to the executive authority for grant or renewal of the license. Of course, in Rule 5, there is reference to Rule 4. I endorse the stand of the learned standing counsel for the local body that reference to Rule 4 is only in respect of payment of fee. Rule 3 talks about destruction of unlicensed pigs. The employment of the expression “unlicensed” presupposes the existence of licensed pigs.



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8.The Hon'ble Division Bench of the Madras High Court in the decision reported in 2016 SCC Online Mad 28004 (R.Thomos Uvakker Vs. the District Collector, Tirunelveli District, Tirunelveli and Others) had held that the aforesaid Rules contemplate that for running a pig farm, one must take license from the local body. To the same effect is earlier order dated 11.03.2009 passed in W.P.(MD)No.2600 of 2019. There are catena of similar such orders. I, therefore, hold that for running a pig farm, the petitioner is bound to obtain license. In fact, it is not enough that the petitioner has to obtain one license. He has to obtain as many number of licenses as there are pigs.

9.The petitioner had already submitted an application as early as in the year 2020. The number of pigs might now vary. I, therefore, permit the petitioner to apply afresh for taking appropriate number of licenses from the local body. The petitioner is given seven days from the date of receipt of a copy of this order to make such an application. The local body shall take a call on the said application within a period of four weeks thereafter. Since the petitioner was having interim order during the pendency of the writ petition, the same will continue till passing of final order by the local body / ninth respondent on the petitioner's license application. If the petitioner fails to



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submit an application within the time limit mentioned aforesaid, the benefit of this order would stand automatically vacated.

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

03.01.2024

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