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W.P.(MD)NO.15368 OF 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.01.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.15368 of 2020

S.Dhurai

... Petitioner

Vs.

1. The District Collector,
Collectorate, Nagercoil,
Kanyakumari District.
2. The Assistant Director(Panchayats),
Nagercoil,
Kanyakumri District.
3. The President,
Kattimancode Village Panchayat,
Kattimancode,
Kanyakumari District.
4. The Block Development Officer,
Kurunthencode Panchayat Union,
Kurunthencode,
Kanyakumari District.



5. The District Fire Officer,
Fire and Rescue Department,
Nagercoil,
Kanyakumari District.

6. The Deputy Director,
Health Services,
Public Health and Preventive Medicine Department,
Nagercoil,
Kanyakumari District.

7. The Chairman,
Tamil Nadu Pollution Control Board,
76, Mount Salai, Guindy,
Chennai – 600 032.

8. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
318/46-A, Water Tank Road,
Nagercoil – 629 001,
Kanyakumari District.

9. Jupiter Udhayam

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 19.10.2020



passed by the 3rd respondent returning the petitioners site plan for constructing a Micro Small Scale Industry for manufacturing wooden brush made of coconut and palm fiber in Survey No.260/11 at Kurunthencode Village, Kanyakumari District and quash the same as illegal and directing the 3rd respondent to approve the petitioner's site plan for constructing a Micro Small Scale Industry for manufacturing wooden brush made of coconut and palm fiber in Survey No.260/11 at Kurunthencode Village, Kanyakumari District.

For Petitioner : Mr.B.N.Raja Mohamed
For R-1 to R-6 : Mr.S.Kameshwaran,
Government Advocate.
For R-7 & R-8 : Ms.Vijayakumari Natarajan,
Standing counsel.
For R-9 : No appearance.

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Government Advocate appearing for the official respondents and the learned Standing counsel appearing for the Tamil Nadu Pollution Control Board.

2. The petitioner approached the local body seeking



permission for putting up the petition-mentioned industrial unit. Under Section 160 of the Tamil Nadu Panchayats Act 1994, such permission has to be obtained. The petitioner also sought approval of the site plan. The petitioner's application was returned by the President of the local body on 19.10.2020. As many as nine defects were pointed out in the communication whereby the application was returned. Challenging the same, the present writ petition came to be filed.

3. The petitioner is engaged in manufacture of wooden brush made of Coconut and Palm fibre. It is not in dispute that it is a cottage industry. The first ground of return is that in a residential zone, such activities cannot be permitted.

4. The learned counsel appearing for the petitioner draws my attention to the Annexure-XVIII of Tamil Nadu Combined Development and Building Rules, 2019. It can be seen therefrom that the cottage industries can be set up in residential used zones also. My attention has been drawn to G.O.No.565 Local Administration dated 13.03.1962 and G.O.Ms.No.566 Local Administration dated 13.03.1962.



5. I am more than satisfied that the petitioner's unit falls within the scope of the aforesaid Government Orders. Therefore the first ground of return is unsustainable.

6. What surprises me is the insistence of obtaining “No Objection Certificate” from the Government Pleaders.

7. I fail to understand from where the President of the local body derived inspiration to incorporate such a condition.

8. The petition-mentioned area measures less than 2 cents. It is stated that very few hands are employed in the petitioner's tiny unit. Therefore, the question of constructing separate toilets for men and women does not arise. If the condition to construct separate toilets for men and women is complied with, the petitioner will be left with no area for running the unit.

9. It has been registered as MSME. Financial facilities have been availed under a Central Government scheme. It is generating some employment at the local level. Instead of encouraging such activities, the President of the local body has unnecessarily put spokes in the wheel. In this view of the matter, the impugned communication is set



aside.

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10. The petitioner is permitted to re-present the application before the local body / third respondent. The permission as contemplated under Section 160 of the Tamil Nadu Panchayats Act shall be granted. However, as rightly pointed out by the learned Government Advocate, the petitioner cannot be permitted to commit encroachment. He has to confine his activities to his patta land. The petitioner has to comply with any other stipulation as envisaged by the statute that may be incorporated in the order to be passed by the third respondent.

11. The third respondent will approve the petitioner's site plan and also grant him permission under Section 160 of the Tamil Nadu Panchayats Act, 1994. This writ petition stands allowed. No costs.

11.01.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

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G.R.SWAMINATHAN,J.

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