

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 31-10-2006

CORAM

THE HONOURABLE MR. JUSTICE M.E.N. PATRUDU

WRIT PETITION No.2857 OF 2004

U.Mohammed Abdullah                      ...                      Petitioner

-VS-

The Municipal Corporation of Tiruchi,  
rep.by the Commissioner,  
Promenade Road,  
Tiruchi - 1. .... Respondent

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus directing the respondent to forbear from using the building and grounds at Old Post Office Road, Marsingpet in TS.No.1155, Block No.33, Old Ward No.I, Ponmalai Zone, Tiruchi for any purpose other than as slaughter house, pursuant to the telegram issued on behalf of the petitioner on 3.2.2004.

For petitioner : Smt.Hema Sampath

For respondent : Sri P.Srinivas

## O R D E R

Heard Smt.Hema Sampath, learned counsel appearing for the petitioner, and Sri P.Srinivas, learned Standing Counsel appearing for the respondent Corporation.

2. At the outset, it is necessary to place on record the humane and the legal services rendered by the learned counsel appearing for both the parties.

3. Smt.Hema Sampath, learned counsel, took up the public cause and Sri P.Srinivas, learned Standing Counsel, made sincere efforts in public interest, resulting in a solution to the long pending problem of the citizens of Tiruchy. The Commissioner of Municipal Corporation of Tiruchy is also present and he has produced the necessary materials. This Court is happy to note that the petitioner and the respondent are taking prompt steps in this regard.

4. The problem is that at present there is no slaughter house in the city of Tiruchy. In fact, there was a slaughter house in old Post

Office Road, Marsingpet, Tiruchy, used by about 200 persons and their ancestors for slaughtering the heads of cattle from long time. In 1944, the worshippers of a local mosque filed O.S.No.185 of 1944 on the file of District Munsif Court, for a direction to close the slaughter house and the same was dismissed. Thereafter, an appeal A.S.No.276 of 1946 was preferred and the same was also dismissed. The slaughter house continued to be under the control and supervision of the Municipal Council. While so, due to some reasons beyond the control of the Municipality, the slaughter house was closed in March,1980.

5. Hence, Writ Petition No.1710 of 1980 was filed for a direction to reopen the slaughter house and the stalls around it and it was allowed. An undertaking was given by the Municipality that they would reopen the same. But, it is now contended that the Municipality did not obey the same. It appears, directions were also issued to the District Collector, but there was no positive response. Hence, a civil suit was filed in O.S.No.395 of 1981 for the same relief and it was decreed on 20.10.1981, but the decree was not implemented. Hence, Writ Petition No.10201 of 1981 was filed, wherein it was observed that slaughtering should be continued at the old place. Thereafter, W.A.No.66 of 1982 was also filed and finally it was agreed that the Municipal Corporation would establish a new slaughter house at any place within the municipal limits. Since the old slaughter house was not reopened till the construction of a new one and as there was no facility for slaughtering the cattle, another suit in O.S.No.540 of 1983 was filed on the file of District Munsif Court, Tiruchy, for a mandatory injunction to reopen the old slaughter house and the same was decreed on 05.08.1993. Thereafter, an appeal was preferred in A.S.No.128 of 1996 and the same was dismissed by the Sub-Court, granting three months' time to the defendants to fulfil the fruits of the decree. Since the decree was not implemented, an execution petition E.P.No.262 of 2001 was filed and it is being adjourned from time to time. Hence, C.R.P.No.2836 of 2003 was filed and this Court gave a direction to the District Munsif to dispose of the execution petition expeditiously, but it is still pending.

6. Since the Municipal Corporation intended to convert the old slaughter house as a multi-storied building without providing alternative slaughter house, another suit in O.S.No.1412 of 2003 was filed and the same is pending. An interim injunction was granted and it was made absolute. In spite of the same, the Municipality started demolishing the old slaughter house. A lawyer's notice was also issued and contempt petitions were initiated.

7. As there is no effective relief to the petitioner, the petitioner has approached this Court by way of this Writ Petition. There will be another writ direction by disposing of this writ petition and the same story will continue.

8. The respondent filed a counter, admitting the long pending litigation and the Civil Court decrees. However, it is contended that as the Civil Court has issued a decree, the writ is not maintainable. It is

also stated that the petitioner can approach the Civil Court to enforce the decree and a writ under Article 226 of the Constitution is not maintainable.

9. While so, in para 4, it is stated that the land in T.S.No.115, Block No.33, Old Ward No.1 was used as a slaughter house, but as it was in a very congested residential locality and as it was causing inconvenience to the residents of the locality, the Municipality intended to shift it to another place. It is also stated that the respondent has closed down the old slaughter house, demolished the building and constructed a school building, wherein a school is running.

10. It is further stated that the respondent intends to construct a new slaughter house and the proposals will have to be submitted before the council and they are inspecting various localities to identify the site for construction of the slaughter house and they have to obtain approval and consent from the State Government and the Pollution Control Board and it will take some time for processing. So saying, the respondent prays for dismissal of the Writ Petition.

11. This history is continuing and the aggrieved persons are filing suits after suits and approaching this Court for directions and the officials are contesting the same. Despite the Court directions, the public cause remained unattended to.

12. When this Writ Petition, which is pending from the year 2004, came up before this Court for final hearing, this Court perused the affidavit and the counter affidavit and also gave a patient hearing to both sides.

13. Attention of the Court is drawn to certain facts viz., there is no slaughter house in the town of Tiruchy; the old slaughter house is demolished and a school building is constructed and the school children from classes 1 to 8 are now attending the school. It is also brought to the notice of this Court that the earlier slaughter house was situated in a very congested residential locality and the residents made several objections for continuing the slaughter house at the said place, as the activities of the meat vendors were causing misery and deteriorating the public health of the area and huge amounts of waste and excreta of the cattle used to accumulate everyday. At the same time, it is also brought to the notice of this Court that the butchers have no other place except to slaughter their cattle in public streets or in public places or in their residential houses.

14. Thus, a serious problem has arisen not only to the residents of Tiruchy, but even to this Court, to find out a reasonable, practical and possible solution to implement immediately. Therefore, this Court gave a direction to the Commissioner, Municipal Corporation, Tiruchy, and the District Collector, Tiruchy, to make a joint inspection immediately and identify a suitable place for construction of a slaughter house and submit a report. Since it had become necessary to hear the executive head



of the Municipal Corporation to solve the problem, this Court directed the Commissioner of Tiruchy Municipality to be present in the Court and to file a report.

15. It is heartening to note that the Municipal Commissioner has made good efforts and he is present and, through the Standing Counsel, submitted a report.

16. The report discloses that a site has been identified in T.S.No.123, Block No.28, Ward No.AF, Ponmalai Zone. The total extent of the area is 9070 sq.mts. It is also stated that the said site is in the outskirts of the city and it is suitable as per the specifications of the Animal Welfare Board of India. A joint inspection notes is also filed along with the report. The said report also discloses that the Government of the State issued G.O.Ms.No.80, Municipal Administration and Water Supply Department, dated 05.09.2006, allotting 50% of the funds for construction of the modern slaughter house and that the remaining 50% of the funds are to be met by the urban local body.

17. It is stated before this Court that the respondent has now identified a site as per the specifications of the Animal Welfare Board of India and the Government of the State has allotted 50% of the funds and the Municipal Corporation will meet the remaining 50% of the funds and they will commence construction of the slaughter house shortly. However, it is stated that the process of construction of slaughter house will have to be taken after following various procedures, including the drawing up of detailed plans, proposals and obtaining necessary permission of the Animal Welfare Board of India and the Pollution Control Board, and administrative sanction has to be given by the head of the municipal administration of the State and thereafter, tenders have to be floated and after disposal of the tender, work order has to be issued and the construction will be commenced.

18. The Commissioner of Municipal Corporation was directed to file a time bound schedule for execution of the work and also the activity chart and the same are submitted. This Court has perused the same.

19. As per the said schedule, the respondent requires about 240 days to commence and complete the construction of modern slaughter house.

20. The time schedule and the work schedule can conveniently be divided into three parts. The first part is from Serial Nos.1 to 4 of the chart i.e., with regard to preparation of estimates, technical sanction, council approval and administrative sanction from the Commissioner of Municipal Administration. According to the respondent, they require about 42 days to get administrative sanction from CMA. A perusal of the time schedule discloses that 15 days time is given for administrative sanction from CMA. While so, two weeks' time is taken for preparation of the estimates.

21. In the considered opinion of this Court, preparation of estimates, technical sanction and council approval can be completed within a period of two weeks, as the said work is a table work in the office.

22. Therefore, the respondent is directed to commence preparation of estimates immediately and submit the same for technical sanction.

23. Animal Welfare Board of India and the Pollution Control Board are directed to bestow their interest in this regard and, without causing unnecessary delay, they are directed to process the file expeditiously, as it is in the interest of public, and forward the same to the respondent for approval of the council. This Court would be very happy if the Animal Welfare Board of India and the Pollution Control Board could attend to this problem and complete the same within a period of two or three days. Hence, a copy of this order is directed to be marked to the heads of the Animal Welfare Board of India and the Pollution Control Board. The respondent is also directed to address the heads of the above authorities, enclosing a copy of this order for necessary action.

24. After receiving the preparation of estimates and the technical sanction, the council for the respondent can approve the same, as the decision has already been taken and approval can be done within a period of one or two days.

25. Thereafter, the matter will be sent to the State Headquarters i.e., Chennai, for administrative sanction, which is only a formality. However, it has to go before various authorities to scrutinize, verify and pass necessary orders. Therefore, a copy of this order is directed to be communicated to the Chief Secretary of the State and the Secretary, Municipal Administration, to issue necessary directions to all concerned for speedy disposal of the file and grant the administrative sanction. After the administrative sanction is obtained, normally, the rules of tender are to be followed and, according to the respondent, they may require about 45 days to complete the tender rules and they are to be followed, otherwise it will be questionable. So, the respondent is directed to complete those formalities within the said period of 45 days and the work order has to be issued immediately. Thereafter, the respondent has to personally supervise the progress of the work.

26. The Court is desirous that the work must be allotted to a competent and expert contractor, who can maintain the standards in constructing the slaughter house in a record time.

27. According to the respondent, they require 240 days to complete the construction of the work and, during the course of arguments, it is stated that the work can even be completed within three months. Both sides have submitted that the entire process i.e., from the time of preparation of estimates till the completion of the work will take six months' time.

28. Therefore, this Court is happy to note that both the parties are proposing to solve the problem in a cordial and friendly manner. Since this is a matter of public interest, this Court is of the opinion that the Chairman, District Legal Services Authority, who is the Principal District & Sessions Judge, Trichy, shall also take necessary steps through the District Legal Services Authority to monitor and guide the respondent with regard to the construction of the slaughter house, as indicated above. Hence, a copy of this order is directed to be marked to the Chairman, District Legal Services Authority, Trichy.

29. During the course of arguments, learned counsel for the petitioner has made a representation that the Government of the State has come forward and allotted the funds immediately and as the respondent is also responding positively and this Hon'ble Court is taking an initiative, it is urged that it is desirable to have the Head of the State Government to be apprised of the same to take an initiative for laying a foundation stone for construction of the slaughter house at Trichy through an important minister and inauguration of the building by the head of the Government within six months from now, so that the work shall go on expeditiously and the quality of the work will be of high standard. So, it is for the Chief Secretary of the State to take an initiative in this regard. This Court expects that the officials of the Government will do their best in true spirit of governance.

30. With the above observations, this Writ Petition is disposed of. No costs. Consequently, the connected W.P.M.No.3348 of 2004 is closed.

Sd/-  
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

rj/dixit

To

1. The Commissioner,  
Municipal Corporation of Tiruchi,  
Promenade Road,  
Tiruchi - 1.

2. The chairman,  
District Legal Services Authority,  
Trichy.

3. The P.A. to Chief Secretary to Govt. of Tamil Nadu,  
Chennai 9.

4. The Secretary to Govt.,  
Municipal Administration,  
Fort St. George, Chennai 9.

5. The Principal,  
District and Sessions Judge,  
Trichy.

6. The District Collector, Trichy.

+ 2 CCs to Mrs.Hema Sampath, Advocate SR NO 47467, 51107

+ 1 CC To Mr. P.Srinivas, Advocate SR NO.51175

W.P.No.2857 OF 2004

sgl(co)  
Gp/28.11.



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