

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2020

CORAM

**THE HON'BLE DR.JUSTICE VINEET KOTHARI**

AND

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR**

**W.P.No.27394 of 2019**

P.Rajagopal

... Petitioner

-Vs-

1.The District Collector  
Salem District, Salem.

2.The Commissioner  
Corporation of Salem, Salem.

3.The Tahsildar  
Collectorate Office,  
Hasthampatti, Salem.

4.The District Environmental Engineer  
Tamil Nadu Pollution Control Board  
Salem.

... Respondents

For Petitioner

: Mr.J.Sudhakaran

For Respondents

: Mr.J.Pothiraj, Special Govt.Pleader – for R1 & R3

Mr.S.Sathish – for R2

Mr.C.Kasirajan – for R4

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Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the second respondent to drop the activity of factory or company or mill segregating Bio Degradable Waste and Bio Non Degradable Waste by dumping the waste in huge quantities for producing fertilizer in the Kakkayan Burial Ground in Ward

No.12, Salem Corporation Zone, Salem in the light of the undertaking of the second respondent and the order dated 23.04.2019 in W.P.No.32951 of 2018 passed by the Honourable Division Bench of this Honourable Court.

**ORDER**

**(Order of the Court was made by R.SURESH KUMAR, J.)**

This Public Interest Litigation has been filed seeking the following prayer :-

*" Writ of Mandamus directing the second respondent to drop the activity of factory or company or mill segregating Bio Degradable Waste and Bio Non Degradable Waste by dumping the waste in huge quantities for producing fertilizer in the Kakkayan Burial Ground in Ward No.12, Salem Corporation Zone, Salem in the light of the undertaking of the second respondent and the order dated 23.04.2019 in W.P.No.32951 of 2018 passed by the Honourable Division Bench of this Honourable Court."*

2. Heard Mr.J.Sudhakaran, learned counsel appearing for the petitioner, Mr.J.Pothiraj, learned Special Government Pleader appearing for the first and third respondent, Mr.S.Sathish, learned Standing Counsel appearing for the Second Respondent / Salem Corporation, and Mr.C.Kasirajan, learned Standing Counsel appearing for the fourth respondent / Tamil Nadu Pollution Control Board.

3. The second respondent Salem Corporation seems to have decided to establish 12 Nos. of Micro Composting Centers at Salem Municipal Area for the disposal of the solid wastes and converting it into manure for the purpose of agriculture. In this regard, they already established three such centers. Out of the three, one centre is located in a burial ground area viz., Kakkayan Burial Ground in Ward No.12, Salem Corporation. It is the grievance of the petitioner that the respondent Municipal Corporation has not followed the norms and there has been haphazard dumping of the solid wastes, which has not been processed properly in the centre, thereby it is causing pollution, especially air pollution, and that is the reason why the petitioner has come up with this Public Interest Litigation with the aforesaid prayer.

4. During the last hearing, we had given a direction to the respondent Salem Corporation to file a status report as to the present status of the functioning of the said centre, as to whether any norms to that effect has been violated in the functioning of the centre. We also directed the petitioner to file the recent photographs showing the continuous violation of the norms, as alleged by the petitioner.

5. Accordingly, the respondent Salem Corporation, through the Commissioner, has filed a status report dated 04.11.2019, today, where the learned Standing Counsel has relied upon the following portions.

"7. I respectfully submit that based on the SWM Rules 2016, the Salem Corporation decide to create 12 Micro Composting Centers in 9 locations and 3 of them are constructed here at Kakkayankadu. All the Micro Composting Centers are after fulfilling the above SWM Rules. In respect of the writ petitioner alleged Micro Compost Center functioning in Kakkayan Burial Ground in Ward 12, Salem Corporation, there are no Anganwadi Centers or schools located near the Micro Compost Centre as stated by the petitioner. The nearest school namely Saint Paul Matriculation School is located at a radial distance of 450m. And the Anganwadi centre is located at a radial distance of 250m from this Micro Compost Centre. According to the orders passed by the Hon'ble National Green Tribunal on 14.07.2017 in Original Application No.44 of 2013 (SZ), the minimum distance to be maintained between a dumping yard and habitations is 200m. In Periappa Nagar Residential Welfare Association vs. The District Collector, Dindigul District Case. Salem City Municipal Corporation has constructed the above 3 centres for Processing Bio degradable organic waste and converting them scientifically into manure and it is functioning for the past one year without any health nuisance to the local habitations. The Corporation Sanitary Workers every day morning are collecting solid waste in segregated manner at the door step. The Bio-degradable waste like food waste, vegetable waste, tea dust, egg shell et., are segregated and brought to Micro Compost Centre. The Non-biodegradable waste that is recyclable and non-recyclable waste are sent to recycling and dumping/cement factories for incineration respectively. The Biodegradable waste once again segregated in the conveyer belt for any plastic and other non degradable waste present. The bio degradable waste is shredded in the shredding machine and converted into small particles. The enriched micro organism solution was mixed with shredded biodegradable waste for converting them into manure in 21 days. The mixed biodegradable waste are stored in cubicles, once in 4 days it was stirred for

*aerobic decomposition. The moisture content was evaporated after 21 days the volume also gradually reduced we will get only 15% volume of manure from original biodegradable waste. The leachate formed in the masonry cubicles are collected in a designated sump through closed pipes and it is reused in the cubicles as catalyst to the composting of shredded waste. The recycle waste also sold to the vendors by the sanitary workers. It will be incentive for them. The transportation cost was reduced. If segregation and processing is not done in scientific manner, the waste will be dumped in some other place and will pollute the soil and water of that area at the dump site. This process involves no heating or burning and hence no objectionable odour or fumes produced. Hence this method is not causing any health hazards or nuisance to the public residing in the surroundings as well as students. There is no practice of dumping of solid waste in the burial ground and Salem City Municipal Corporation has not appointed any private company to handle the micro compost centres as stated by the petitioner. It is very clear that the petitioner is unaware of the scientific process being adopted by Salem City Municipal Corporation in this centre to processing bio degradable organic waste into manure which can be utilized for agricultural purposes. All the operations involved in this process being handled by the staffs of Salem City Municipal Corporation and the Salem Corporation have not appointed any company to handle these centres as stated by the petitioner. In Salem City, the Government, Private Hospitals and Nursing Homes made the agreement with Ramky Agency for their disposal of bio medical waste. The agency is authorised by the Tamil Nadu Pollution Control Board for handling biomedical waste. Biomedical wastes are not brought to these centres as stated by the petitioner.*



8. I respectfully submit that there are 3 centres functioning in the burial ground in various places around in Salem City. Each Center is having capacity to process upto 4.80 MT of Biodegradable municipal solid waste per day. Hence, a total quantity of 13 to 14 Tonnes are brought to the centre through micro collection vehicles namely Battery Operated Vehicles. The solid wastes thus collected are processed in Micro Compost Centres to convert them into manure. This manure being issued to the farmers and other gardeners at free of cost. The agricultural lands in and around Salem will be benefitted through this project.

9. I respectfully submit that the Tamil Nadu Pollution Control Board has accorded Authorisation to operate all the three Micro Compost Yard centres in Salem City vide its proceedings No.T1/TNPCB/SWM/F.11502/SLM/2019 dated 27.07.2019.

10. I respectfully submit that the total burial ground is 3,80,267 Sq.ft and 51,984 Sq.ft is being taken for Micro Level Compost Centres as stated the details:-

S.No	Survey No.	Total Extract		Area Occupied for MCC	
		in Sq.Mt	in Sq.Ft	in Sq.Mt	In Sq.Ft
1.	Ward – J- Block – 68 S.No.2/1	1691.50	18207	1691.50	18207
2.	Ward – J- Block 68 - S.No.2/4	4014.50	43211	2135.00	22981
3.	Ward – J- Block 68 – S.No.2/5	29622.00	318849	1003.00	10796
	<b>Total</b>	<b>35,328</b>	<b>3,80,267</b>	<b>4829.50</b>	<b>51,984</b>

6. Learned Standing Counsel would further submit that, all the three centres have already been established and are functioning strictly in accordance with the norms framed in this regard. The sum and substance of the contentions of the learned Standing Counsel for the Corporation is that, as per the norms, there should not be any public utility services like school, Anganwadi etc, located within 200 metre radius from such centre. However, in the present case, there is a private school, which is away at 400 metre radius from the centre and an Anganwadi which is away at 250 metre radius from the Compost Centre, thereby the very functioning of the Compost Centre, does not anyway offend the norms prescribed in this regard, which is only 200 metres.

7. Learned Standing Counsel also pointed out that, out of the total burial ground area to the extent of **3,80,267 Sq.Ft**, for all the three Centres, which are now functioning, the Corporation has carved out only **51,984 Sq.Ft** and have established these Centres. Learned Standing Counsel has also produced some photographs taken very recently and it shows that the Centres are functioning as per the norms and there is no scope to come to the conclusion that the Centres which have been permitted or approved by the Pollution Control Board, are functioning in violation to the norms.

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8. However, the learned counsel for the petitioner made his submissions by relying on some of the photographs claimed to have been taken recently dated 27.12.2019 and submits that even now the norms prescribed are not fully complied with in this regard and the

learned counsel for the petitioner has relied upon the undertaking given before this Court by the Municipal Corporation in an earlier litigation in W.P.No.32951 of 2018 filed by the same petitioner against the respondent Municipal Corporation, where the Division Bench of this Court, by its order dated 23.04.2019, after having recorded the said undertaking given by the Salem Municipal Corporation, has passed the following order.

*"2. The petitioner is seeking directions to the second respondent to consider the petitioner's representation dated 13.11.2018. The said representation is in relation to Kakkayankadu Burial Ground, situated in Corporation of Salem. In the said representation, it is stated that there are many schools and Anganwadi Centres in the said area, where about 15,000 students are studying and a private company has been dumping garbage and burning the same in the burial ground. According to the petitioner, this would be harmful to the health of the students and people in the locality. It is further stated that one company is going to set up a unit to produce fertilizer, which would again cause contamination of drinking water and health problems to the students and people residing in the said area.*

*3. The second respondent ie., the Commissioner, Salem Corporation has filed an affidavit, wherein it is stated in paragraph (4) as under:*

*"4.....There are no Anganwadi Centres or schools located near the Micro Compost Centre campus as stated by the petitioner. Salem City Municipal Corporation has constructed 3 Centers here for converting Municipal solid waste into manure and it is functioning for the past one month without any nuisance or health hazards to the local habitations. Only biodegradable waste is being*



*scientifically processed and there is no practice of dumping solid waste in the burial ground. Salem City Municipal Corporation has not appointed any private company to handle the Micro Compost Centers as stated by the petitioner. Further, there will be no process of segregating Biodegradable waste and Non Biodegradable waste in the burial ground and no dumping of solid waste in huge quantities here as stated by the petitioner."*

9. By relying upon this undertaking, the learned counsel for the petitioner submits that the respondent Corporation is not running the Centres as per the said undertaking and that is the reason for his filing the present Public Interest Litigation.

10. We have given our anxious consideration to the rival submissions made by the learned counsel for the petitioner and the learned Standing Counsel for the Respondent Corporation, and have gone through the materials placed on record.

11. Insofar as the location of the centre in question is concerned, there can be no quarrel as it is well within the norms prescribed and the petitioner also has not expressed any grievance with regard to the location. However, some grievance has been expressed by the learned counsel for the petitioner with respect to the undertaking given by the respondent Corporation before this Court as has been quoted in the said order of the earlier Division Bench dated 23.04.2019. There can be no quarrel on the issue of the undertaking given by

the Salem Municipal Corporation in the earlier round of litigation that the undertaking would be scrupulously followed. Except this, we feel that there is no further issue pending to be agitated, as has been sought for by the writ petitioner in the present Public Interest Litigation.

12. In the result, this Writ Petition is disposed of with the observation that the respondent Salem Corporation shall strictly adhere to the rules in this regard in running the Micro Compost Centres as per the undertaking given before this Court in the earlier litigation, which has been part and parcel of the order of the Division Bench of this Court in W.P.No.32951 of 2018. No costs.

(V.K., J.) (R.S.K.,J.)  
06-01-2020

Index : Yes/No  
Internet : Yes/No

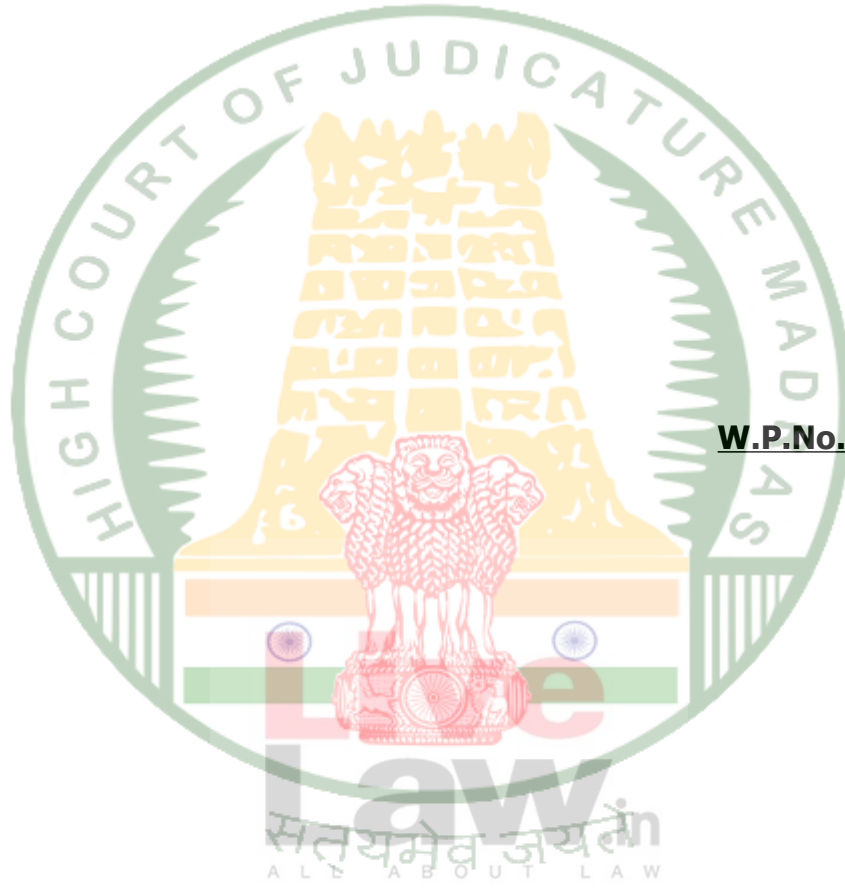
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To

- 1.The District Collector, Salem District, Salem.
- 2.The Commissioner, Corporation of Salem, Salem.
- 3.The Tahsildar, Collectorate Office, Hasthampatti, Salem.
- 4.The District Environmental Engineer, Tamil Nadu Pollution Control Board, Salem.

**DR. VINEET KOTHARI, J.**  
**AND**  
**R.SURESH KUMAR, J.**

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