



IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

WRIT PETITION No. 4907 of 2022

SABIR HUSSAIN

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Makbool Ahmad Mansoori, learned counsel for the petitioner.

Shri Veer Kumar Jain, learned Senior Advocate with Ms. Vaishali Jain, learned counsel for the respondent No.3.

ORDER

(Reserved on 25.11.2024)

(Pronounced on 17.12.2024)

1. By this petition preferred under Article 226 of the Constitution of India the petitioner has challenged the order dated 01.12.2021 (Annexure P/1) passed by the Chief Municipal Officer, Municipal Council, Mandsaur whereby he has refused to grant No Objection



Certificate to the petitioner for carrying out slaughter of buffalos and trading in meat in the city of Mandsaur from the places as mentioned in the application.

2. The facts of the case reveal that the petitioner being desirous of obtaining license for slaughtering animals had made an application before respondent No.3 for grant of No Objection Certificate to him under Section 264 of M.P. Municipalities Act, 1961. The said application was rejected by respondent No.3 by order dated 22.09.2022 on the ground that Mandsaur is a sacred city. The petitioner again filed an application on 22.12.2020 before respondent No.3 annexing therewith the notification dated 09.12.2011 issued by the State of M.P. to the effect that only a radius of 100 meters has been declared as "sacred city" in District Mandsaur. Prayer was again made by him for grant of No Objection Certificate to him. The said application was rejected by respondent No.3 by order dated 08.06.2021. However in appeal preferred by the petitioner, the Collector, Mandsaur by order dated 04.10.2021 directed that in case petitioner makes a fresh application the same be decided by respondent No.3 on merits.

3. Thereafter on 05.10.2021 the petitioner again made an application before respondent No.3 for grant of No Objection Certificate to him which has been rejected by respondent No.3 by the



impugned order on the ground that the places for slaughter of animals for sale to be fixed are under approval of the State Government and proceedings for establishment of a slaughter house is under consideration in which appropriate land for this purpose is to be chosen.

4. Learned counsel for the petitioner has submitted that in similar circumstances while considering pari materia provisions of Section 66 of M.P. Municipal Corporation Act the Division Bench of this Court by order **dated 24.04.2017** passed in **W.P. No.1841/2016 {Pada Mans Vikreta Sangh Indore through Mohd. Nasir Qureshi V/s. The State of Madhya Pradesh}** has permitted setting up of slaughter house till establishment of modern slaughter house. It is submitted that in the present case also similar directions deserve to be issued.

5. Reply has been filed by respondent No.3 and it is submitted by the learned Senior Counsel for respondent No.3 that the provisions of Section 264 of the Act, 1961 are not mandatory in nature. It is not mandatory for the Municipality to issue No Objection Certificate or a license and it has complete power and authority to use its discretion. The process of identifying suitable place of land for setting up of a slaughter house is under process. Mandsaur is a city of utmost religious significance, therefore, it would cause great



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prejudice and hurt religious sentiments if permission for slaughter house is given. Since the matter is sensitive the City Superintendent of Police, Mandsaur and Officer-in-Charge of City Kotwali, Mandsaur have also requested that such permission should not be given to the petitioner. It is hence submitted that the impugned order cannot be interfered with.

6. I have heard leaned counsel for the parties and have perused the record.

7. In the impugned order dated 01.12.2021 it has been mentioned by respondent No.3 that the power to fix a place for setting up of a slaughter house is with the State Government hence No Objection Certificate as prayed cannot be granted to the petitioner. The process for identifying land for setting up of a slaughter house is under process and upon the same being identified the slaughter house would be established with due permission of the State Government hence No Objection Certificate as prayed for by the petitioner for the place as sought for by him cannot be granted.

8. From a perusal of the aforesaid order it is evident that the stand taken by respondent No.3 is not to the effect that a slaughter house cannot at all be permitted to be established. The stand is that the process for identifying the place for setting up of such a slaughter



house is under process and upon the same being done with approval of State Government it shall be so set up. However in the return respondent No.3 has raised a ground to the effect that it is not mandatory for the Municipality to set up a slaughter house under Section 264 of the Act, 1961. That was not a reason taken in the impugned order for rejection of the application of the petitioner. Any ground which is not mentioned in the impugned order cannot be supplemented in the return. In any case it is observed that at no stage of the proceedings has respondent No.3 ever taken the stand that it is not bound to establish a slaughter house. Under Section 264 of the Act, 1961 it may fix places for the same and as per respondent No.3 itself process has been initiated by it for fixing such a place and approval of the State Government is awaited. Once having initiated the said process it is not open for respondent No.3 to take a somersault in the return and to contend that it is not bound to establish such a slaughter house.

9. The reason as has been taken in the return that Mandsaur is a religious city hence permission for establishment of a slaughter house cannot be given is wholly unacceptable. At no point of time has such a stand ever been taken by respondent No.3. The issue is regulated by specific legal provisions and even the notification which has been issued by the State Government on 09.12.2011 has



declared an area of only 100 meter in radius to be a sacred area. Only for issuance of such a notification the entire city cannot be considered to be a sacred area. The stand as taken in the return by respondent No.3 hence cannot be accepted. Likewise the recommendation of the Police authorities relied upon by respondent No.3 in the return also deserve to be ignored firstly because that was not a reason given in the impugned order and secondly because the same were based upon consideration of situation of law and order and not upon consideration of any provisions of the Municipalities Act. Respondent No.3 is not bound by such recommendations and cannot even rely upon them to not exercise power vested in it under the Act, 1961.

10. The petitioner has not in this petition claimed grant of No Objection Certificate to him in respect of the very same place for which he had made the application but has instead submitted that similar order as in the case of **Pada Mans Vikreta Sangh, Indore through Mohammad Nasir Qureshi (supra)** be issued.

11. In the aforesaid case it was held by this Court as under :-

"1. This order shall dispose of W.P.No.1841/2016 and W.P.No.6975/2016 wherein the petitioners have sought directions to the Indore Municipal Corporation to establish modern slaughter house



within the time to be prescribed by this Court.

2. Petitioners have pointed out that in terms of Section 66(1)(m) of M.P.Municipal Corporation Act, it is the responsibility of the Municipal Corporation for construction and maintenance of public market and slaughter houses and the regulation of all markets and slaughter houses. Therefore, Municipal Corporation has to construct and maintain a slaughter house, so that meat in the hygienic conditions can be provided to the citizens within the area of Indore Municipal Corporation.

3. On the other hand, learned counsel for the Indore Municipal Corporation points out that the Corporation has taken measures for construction of modern slaughter house, but has not been successful, as per the detailed facts mentioned in the counter affidavit filed in W.P. No.10353/2013 (Alok Bhatnagar vs. State of M.P. and others) which writ petition has been decided vide separate order today.

4. After hearing the learned counsel for the parties, we dispose of the present writ petition with the following directions:-

(i) The Municipal Corporation to take immediate steps for the establishment of modern slaughter house after taking consent under the Water(Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and other applicable laws, if any.

(ii) Meantime, the petitioners or any other persons



may set up a slaughter house after taking consent under Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and other applicable laws, if any. The slaughtering of animals can be permitted in the said slaughter house, but not without the consent under the Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and other applicable laws.

5. With the said directions and liberty, writ petition stands disposed of."

12. Since the process of fixing the location for setting up of the slaughter house has already been initiated by respondent No.3 and which is pending approval of the State Government, I deem it fit and proper to issue similar directions as were issued in the case of **Pada Mans Vikreta Sangh (supra)**. The respondent No.3 is hence directed to issue No Objection Certificate to the petitioner for setting up of a slaughter house. The petitioner shall be permitted to do so after taking consent under Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and other applicable laws, if any. The slaughtering of animals shall be permissible in the said slaughter house but not without the consent under the aforesaid Acts and other applicable laws.

13. With the aforesaid direction, setting aside the impugned order dated 01.12.2021 passed by respondent No.3, the petition stands

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allowed and disposed off.

**(PRANAY VERMA)
JUDGE**

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