
(1949) 07 MAD CK 0056
In the Madras High Court

P. Venkatachala Udayan

APPELLANT

Vs

The Executive Officer, Rasipuram Panchayat Board

RESPONDENT

Date of Decision : 14-07-1949

Acts Referred:

Madras Local Boards Act, 1920 — Section 194(1)(b)

Citation : (1949) 2 MLJ 263

Hon'ble Judges : Panchapakesa Ayyar, J;Panchapakesa Aiyar, J

Bench : Division Bench

Judgement

Panchapakesa Ayyar, J.—The petitioner, a ryot living within Rasipuram Panchayat limits, has been convicted under Sections 212 and 194

(1)(b) of the Madras Local Boards Act, 1920, for installing a five horse power motor and a pump set in R. S. No. 25/5 (MooLal well) in

Koneripatti village within the Rasipuram Panchayat limits without having been granted a licence by the Panchayat and has been fined Rs. 100. Mr.

V.V. Srinivasa Aiyangar, for the petitioner, urged six reasons for quashing the conviction.. I need consider only two of them as either of them is

enough to quash the conviction. The first is that Section 194(1)(b) will apply only to installations in premises for the purpose of industries and

factories, the minor head under which this section comes, and will have no possible application to a pump installed in a field-well for irrigation

purposes. The learned Crown Prosecutor agreed. On this ground alone the petitioner's conviction must be quashed. All the considerations of

inconvenience to neighbours by this petitioner's drawing away by means of his pump all the subsoil water are irrelevant for the purpose of this

criminal case.

2. The next contention was that u/s 212(ii) of the Local Boards Act, the application for the licence must be deemed to have been allowed as the petitioner applied for a licence on 10th September, 1946, and orders on it were not communicated to him, within thirty days. The order of refusal was only on 12th February, 1947. Such cataleptic sleeps over petitions are the very things disapproved of and provided in Section 212(ii) The. lower Courts went wrong in stating that the thirty days given in Section 212(ii) were not sufficient to consult the Health Officer and others and so the provision in Section 212(ii) must be ignored. The provision is a mandatory one passed by the Legislature after mature consideration. It is not for Magistrates to ignore it and stretch a point against a person accused of a criminal offence and fine him. It is only the Legislature which can amend it and extend the time if it deems fit. And why should it do so when thirty days are ample in all conscience to pass orders on such applications, and cars and air mail make communication quicker ? So the petitioner must be deemed to have been granted the licence for the pump for that year even if one was required and must be acquitted on that ground also.

3. In the end, I set aside the conviction and sentence, acquit the petitioner, and order the fine, if paid, to be refunded.