

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P.No.1609 of 2015

and

M.P.No.1 of 2015

Mrs.C.Rani .. Petitioner

Vs.

1.The Commissioner,
Tambaram Municipality,
Tambaram, Chennai-600 045.

2.The Chairman,
Tambaram Municipality,
Tambaram, Chennai-600 045.

3.The Inspector of Police,
Tambaram West Police Station,
Chennai-600 045. .. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying for the issue of a writ of certiorarified mandamus to call for the records pertaining to the order passed by the second respondent in his proceeding Vide No.Ka.No.5010/2014/F-1 dated 6.1.2015 and quash the same by directing the respondents not to evict the petitioner's petty Flower shop from Muthu Ranga Mudali Street, Shanmugam Salai at Tambaram junction, Chennai-45.

For Petitioner : Mr.R.Balasubramanian

For Respondents : Mr.P.Srinivas for RR1 and 2
Mr.P.S.Sivashanmugasundaram, Spl.G.P.
For R-3

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

The petitioner, claiming to be a Flower Vendor, having her temporary shop at Muthu Ranga Mudali Street, Shanmugam Salai at Tambaram junction, nearby Asai Textiles and Sophia Textiles, has come up with this writ petition, questioning the legality of the proceedings in Na.Ka.No.5010/2014/F-1 dated 6.1.2015, for consequential direction to the respondents not to evict the petitioner from her petty flower shop at the said place.

2. On an earlier occasion, apprehending removal from the said shop by the official respondents, the petitioner preferred a writ petition, being W.P.No.34606 of 2014, seeking a direction to the first respondent to consider her representation dated 19.12.2014. The learned Single Judge of this court disposed of the said writ petition on 23.12.2014, directing the second respondent to consider the said representation on merits and pass appropriate orders in accordance with law, within a period of four weeks from the date of receipt of a copy of the said order.

3. In pursuance of the said order, the second respondent considered the case of the petitioner on the basis of the representation and held that in order to regulate the traffic, pedestrians in the said congested road, the Vendors Committee has decided to allot shops to the extent of 3' x 3' or 4' x 5' according to availability in some other place. The second respondent, holding that the petitioner was entitled to allotment of place to run her business on some other place, rejected the representation. Thus, this petition.

4. The learned counsel appearing for the petitioner contends inter-alia that the petitioner has been operating the said flower business for a long time and that was the only source of her family's livelihood. It was further stated that the said shop does not create any hindrance or obstacle either to the pedestrians or to the traffic.

5. The petitioner has made several personal allegations without enclosing any document to establish the same to the effect that the second respondent is interested in allotting the said shop to his well wisher. Further grievance of the petitioner is that the orders of the Supreme Court passed in Gaiinda Ram and others Vs. Municipal Corporation of Delhi and others¹ and also the subsequent order in Maharashtra Ekta Hawkers Union and another Vs. Municipal Corporation, Greater Mumbai and others² have not been complied with.

¹ (2010) 10 SCC 715.

² Civil Appeal Nos.4156-4157 of 2002 batch cases dated 9.9.2013.

6. Pursuant to the notice of this Court, the first respondent has filed a reply stating therein that after the construction of Grade Separator by the Highways Department in Mudichur Road junction, the traffic from Shanmugam Road was not allowed directly into the GST Road as the Arm of the Grade Separator was in the way and the ramp for descending traffic blocked the same. In order to regulate the traffic, it was decided to re-place the vendors, like the petitioner, and reallocate them under the Mudichur Road Arm of the flyover. Various associations have filed several writ petitions, i.e., W.P.No.16681 of 1995, 21959 of 2010, 13152 of 2010, W.A.No.1088 of 1999, W.P.No.16628 of 1999, before this Court, wherein it was ordered to constitute the Street Vending Committee. The Committee was accordingly constituted under the Chairmanship of the Municipal Commissioner, first respondent, comprising of representatives of various associations, Tahsildar, Revenue Department, Jurisdictional Engineer of the Highways Department, Inspector of Police and representatives of Lead Bank Manager and the representatives of the Vendors Association. The Vending Committee has considered all representations of the similarly situated vendors and was of the view that by reallocation, the petitioner would not suffer. The Street Vending Committee in its meeting held on 7.1.2015 has resolved to remove the shop of the petitioner and to allot alternate place.

7. We have considered the rival contentions of the learned counsel appearing for the parties and also perused the pleadings and documents appended thereto.

8. It is indisputable that the petitioner has been running flower vending business at Muthu Ranga Mudali Street, Shanmugam Salai at Tambaram junction. With the passage of time and on account of the construction of the Grade Separator, the traffic has been congested. Since the petitioner was doing her business on the pavement, that had created problem to the pedestrians also, in addition to causing hindrance to the free flow of traffic. Thus the respondent Municipality constituted a Vending Committee, as directed by the Supreme Court, and had taken a decision to reallocate all vendors, including the petitioner as aforesaid. Thus, we do not find any error or irregularity in the order dated 6.1.2015 passed by the second respondent removing the petitioner from the place.

9. So far as the compliance of the order passed by the Supreme Court in *Gainda Ram and others Vs. Municipal Corporation of Delhi and others*¹ and also the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 are concerned, the petitioner has not pointed out any specific non

¹ (2010) 10 SCC 715.

compliance to indicate that the petitioner has been prejudiced on account of non compliance of the judicial pronouncement as well as statutory provisions. In the event, the petitioner points out any grievance on account of breach of any direction, which prejudices the case of the petitioner, the petitioner is at liberty to approach the authorities. In turn, the authorities are directed to strictly comply with the orders of the Supreme Court and also the statutory provisions, as aforesated.

10. For the reasons mentioned hereinabove, the writ petition is devoid of merits. Accordingly, the writ petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Deputy Registrar (Judicial)

/true copy/

Sub Asst. Registrar

vvk

To

- 1.The Commissioner,
Tambaram Municipality,
Tambaram, Chennai-600 045.
- 2.The Chairman,
Tambaram Municipality,
Tambaram, Chennai-600 045.
- 3.The Inspector of Police,
Tambaram West Police Station,
Chennai-600 045.

1 cc to Mr.R. Balasubramanian, Advocate, Sr. 5686
1 cc o mr.P.Srinivas, Advocate, sr. 5385

W.P.No.1609 of 2015

GJ (CO)
kk 13/2