

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2015

CORAM:

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

THE HON'BLE MR.JUSTICE B. RAJENDRAN

W.P. No.32183 of 2015 and M.P. No.1 of 2015

Kizhakku Pagudhi Usman Salai
Sirukadai Vyabarigal Sangam
represented by its President K.B. Palani
Shop No.3, Panagal Park Market
Usman Road
T. Nagar, Chennai 600 017

...Petitioner

Vs

1 The Chairman
Hawking Zone Implementation Committee
No.7/6, R.A. Puram III Street
R.A. Puram
Chennai 600 028

2 The Commissioner
Corporation of Chennai
Ripon Buildings
Chennai 600 003

3 The Assistant Commissioner
Corporation of Chennai
Old Zone VIII, New Zone X
Chennai 600 024

4 The Commissioner of Police
Chennai Commissioner Office
E.V.K. Sampath Salai
Vepery, Chennai 600 007

5 The Inspector of Police
R-1 Mambalam Police Station
Chennai 600 017

6 The Inspector of Police (Traffic)
R-4, Pondy Bazaar Police Station
T. Nagar
Chennai - 600 017

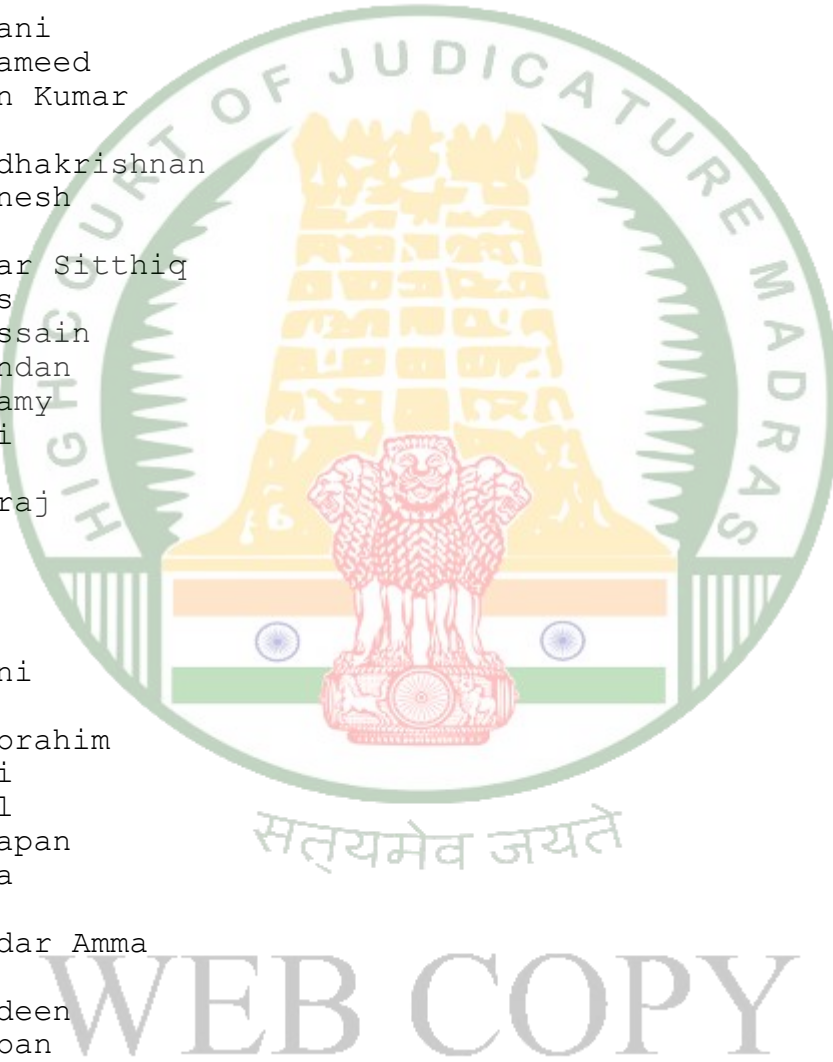
...Respondents

Writ Petition filed under Article 226 of the Constitution seeking a writ of certiorarified mandamus calling for the records relating to the order dated 07.09.2015 in Ref.No.H.Z.I.C.C. No.127/2015 passed by the first respondent and quash the same by directing the first respondent to review or reconsider the petitioner's representation dated 01.09.2015 and allot shops to all 33 members of the petitioner association listed

Kizhakku Pagudhi Usman Salai Sirukadai Vybarigal Sangam

Members List

1. K.B.Palani
2. Sahul Hameed
3. P.Madhan Kumar
4. Selvam
5. Navaneedhakrishnan
6. Hema Ganesh
7. Sulthan
8. Abubakkar Sitthiq
9. Ramadoss
10. Jahirussain
11. Manikandan
12. Periasamy
13. Lakshmi
14. Deepa
15. Udhayaraj
16. Jamaal
17. Ajiz
18. Rafiq
19. Santhi
20. V.Palani
21. Kannan
22. Syed Ibrahim
23. Bhavani
24. Vaidvel
25. Kanniyapan
26. Saritha
27. Balaji
28. Sikkandar Amma
29. Iqbal
30. Mujibudeen
31. Parthiban
32. Syed Ibrahim
33. Gunasekar



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in the annexure to this writ petition either in the same place or any other suitable place by registering them as street vendors and grant them the necessary licence or certificate to hawk (or street vending) on the Usman Road (doing small business

or trade on the pavement of Usman Road from Gem & Co., to L.K.S. Jewellery Shop), T. Nagar, Chennai - 600 017 and in any event, not to evict them without following the procedures to regulate them under Section 12(1) of the said Act.

For petitioner : Mr. R. Manickavel

For RR 2 & 3 : Mr. A. Nagarajan

For RR 4 to 6 : Mrs. A. Srijayanthi
Special Government Pleader

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ORDER

(delivered by SATISH K. AGNIHOTRI, J.,)

Mr. A. Nagarajan, learned Standing Counsel, accepts notice for respondents 2 and 3. Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for respondents 4 to 6. With the consent of the respective learned counsel, the writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed challenging the order dated 07 September 2015 passed by the first respondent and for a direction to the first respondent to review or reconsider the petitioner's representation dated 01 September 2015 and allot shops to all 33 members of the petitioner association listed in the annexure to this writ petition, either in the same place or any other suitable place by registering them as street vendors and grant them the necessary licence or certificate to hawk (or street vending) on Usman Road (doing small business or trade on the pavement of Usman Road from Gem & Co., to L.K.S. Jewellery Shop), T. Nagar, Chennai - 600 017 and in any event, not to evict them without following the procedures to regulate them under Section 12(1) of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (for short "the Act").

3 The question involved in this writ petition, i.e., whether the persons, who are stated to be vendors/hawkers engaged in street vending, as defined under Section 2(1) of the Act, are entitled to safeguard and protection, till the provisions of the Act, are implemented fully, came into consideration in B.Noor Ahmed and 48 others vs. State of Tamil Nadu represented by its Secretary, St.George Fort, Chennai - 9 and 3 others¹ and a Division Bench of this Court, wherein, one of us (Satish K. Agnihotri J.) was a Member, allowed the said batch of writ petitions vide order dated 30 September 2015, in the following terms:

¹ W.P.Nos.18397 of 2014 etc. batch

"27 In such view of the matter, the State Government is directed to frame the rules and bye-laws, thereafter, at the earliest to extend sufficient protection, subject to regulations made therein, to all the street vendors/hawkers.

28 The vendors are protected under the statutory provision, viz, sub-section (3) of Section 3 of the Act and as such, till the Town Vending Committee is constituted under the provisions of the Act and a survey is made thereon, in accordance with the scheme, which is yet to be framed, the petitioners / the members of the petitioner associations, shall not be evicted from their place of business or trade.

29 We further direct that the petitioners/members of the petitioner associations shall not increase the size of their shops and spread the periphery of the same by littering goods and articles sold by them in the course of their trade/business.

The writ petitions are allowed to the extent indicated above. Costs made easy. Connected Miscellaneous Petitions are closed."

4 Since the members of the petitioner association are similarly-situated, they are also entitled to the protection as laid down by this Court in B.Noor Ahmed¹.

5 Accordingly, this writ petition stands allowed in the same terms. No costs. Connected Miscellaneous Petition is closed.

sd/-

ASSISTANT REGISTRAR (CS-V)

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SUB-ASSISTANT REGISTRAR

cad

To

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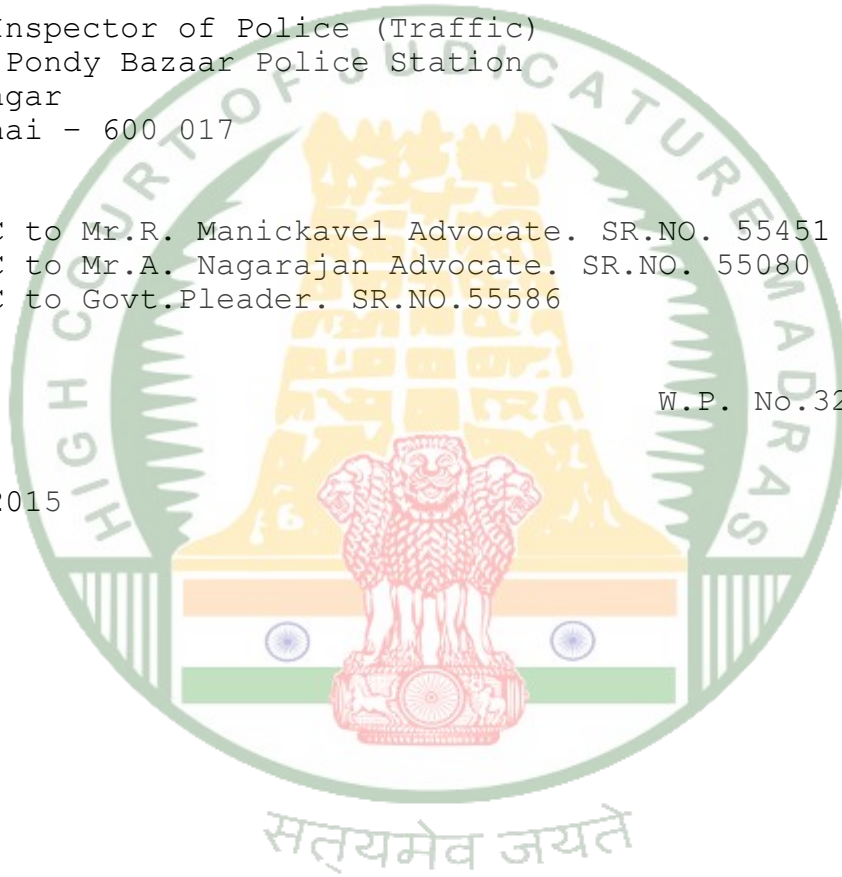
+1 CC to Mr.R. Manickavel Advocate. SR.NO. 55451

+1 CC to Mr.A. Nagarajan Advocate. SR.NO. 55080

+1 CC to Govt.Pleader. SR.NO.55586

W.P. No.32183 of 2015

CO-RSI
JD 19/10/2015



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