

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:20.10.2015

CORAM

THE HONOURABLE MR. JUSTICE T.MATHIVANAN

W.P.No.33942 OF 2015

and

M.P.No.1 of 2015

Villupuram Salai Ora Viyabarigal Pothu Nala Sangam
(Regn.No.31/2015)
Rep.by its President
No.131, M.G.Road,
Villupuram.

.. Petitioner

Versus

1. Government of Tamil Nadu
Represented by its Secretary
Municipal Administration Department,
Fort St.George,
Chennai - 600 009.

2. The District Collector,
Villupuram District,
Villupuram.

3. The Commissioner,
Villupuram Municipality,
Villupuram.

.. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to consider the representation made by the petitioner association dated 16.10.2015 by regulating the street vending/hawking trade in M.G.Road, Badhusha Street and Nehru Street at Villupuram Town and further direct the respondents to constitute Town vending committee as per the Street Venders (Protection of Livelihood & Regulation) Act 2014.

For Petitioner : Mr.R.Sankarasubbu

For Respondents: Mrs.E.Raniselvam
Additional Government Pleader

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O R D E R

Mrs.E.Raniselvam, learned Additional Government Pleader takes notice on behalf of the respondents. By consent of both sides, the Writ Petition itself is taken up for final hearing.

2. The petitioner has filed this writ petition invoking the provisions of Article 227 of the Constitution of India to issue a direction in the nature of Writ of Mandamus directing the respondents to consider the representation made by the petitioner association dated 16.10.2015 by regulating the street vending/hawking trade in M.G.Road, Badhusa Street and Nehru Street at Villupuram Town and further direct the respondents to constitute Town vending committee as per the Street Vendors (Protection of Livelihood & Regulation) Act 2014.

3. As it appears from the averments of the affidavit filed in support of the petition, the petitioners' Association is espousing the cause of 300 members of MG.Road, 99 members of Vethalai leavers of MG Road, Badhusa street, Nehru Street, Villupuram Town and the said members are eking their livelihood over 50 years by street vending. It is revealed from paragraph 3 of the affidavit that the petitioners Sangam had made a representation to the respondents on 16.10.2015 to regulate the street vending/hawking trade in M.G.Road, Badhusa Street and Nehru Street at Villupuram Town where there is no bus traffic, but a market alone is located and the petitioners Association by vending their commodities like betel nuts and essential household articles which are useful to the general public by selling cheaply and the same to be earmarked the places where streets vendors can be selling their commodities.

4. In this connection, Mr.Sankara Subbu, learned counsel for the petitioner has submitted that as per the Act 7 of 2014 ie., the Street Vendors (Protection of Livelihood and Regulation Street) Act 2014, it is just necessary to constitute town vending committee to regulate street Vending in Villupuram Town. Till such time, street vending is to be regulated. He has also submitted that the petitioners association members are having their own fundamental rights to carry out their street vending business under Article 19(1) (g) of the Constitution of India and therefore, the respondents are directed to regulate the same as per the Street Vendors (Protection of Livelihood and Regulation Street) Act 2014 (Act 7 of 2014). Further Mr.Sankara Subbu has submitted that since pooja holidays and Deepavali holidays are fast approaching, the street vending business of the petitioners association has to be regulated by the respondents. Despite their representation dated 16.10.2015, there has been no response on their side and hence, he has urged that the

petitioners' request be consider sympathetically.

5. On the other hand, the learned Additional Government Pleader appearing for the respondent has strongly objected to grant such relief as prayed for in the writ petition.

6. Mr. Sankara Subbu, learned counsel appearing for the petitioner Association has also placed reliance upon the decision of the Hon'ble Apex Court in Maharashtra Ekta Hawkers Union and Another Vs. Municipal Corporation, Greater Mumbai and Others reported in (2014) 1 SCC 490. In this decision, the Division Bench of the Hon'ble Apex Court in paras 3 and 4 has observed as under:-

"3. The importance of street vendors and hawkers can be measured from the fact that millions of urban poor across the country procure their basic necessities mainly from street vendors/hawkers because the goods viz. Cloths, hosiery items, plastic wares, household items, food items, etc., sold on pavements or through pushcarts, etc., are cheap. The lower income groups also spend a large proportion of their income in purchasing goods from street vendors/hawkers.

4. Unfortunately, the street vendors/hawkers have received raw treatment from the State apparatus before and even after the Independence. They are a harassed lot and are constantly victimised by the officials of the local authorities, the police, etc., who regularly target them for extra income and treat them with extreme contempt. The goods and belongings of the street vendors/hawkers are thrown to the ground and destroyed at regular intervals if they are not able to meet the demands of the officials. Perhaps these minions in the administration have not understood the meaning of the terms dignity enshrined in the preamble of the Constitution."

Further, the Hon'ble Apex Court in paragraph 20 has also made reference to the decision made in Gainda Ram V. MCD reported in (2010) 10 SCC 715 wherein it is stated as under:-

"In Gaiinda Ram case (para 78), this Court had directed that appropriate Government should enact a law on or before 30.06.2011. Once the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012 becomes law, the livelihood of millions would be saved and they will get protection against constant harassment and victimisation which has so far been an order of the day. However, till the needful is done, it will be apposite for the Court to step in and direct that the 2009 Policy, of which the salient provisions are extracted below, should be implemented throughout the country."

7. This Court has considered the submissions made by Mr.Sanakara Subbu and Mrs.Rani Selvam, learned Additional Government pleader and perused the averments of the affidavit filed in support of the petition.

8. Having regard to the related facts and circumstances of the case, this Court finds that it may be expedient to issue a direction as sought for by the petitioner directing them to consider the representation made by the petitioner dated 16.10.2015.

9. Accordingly, the Writ Petition is disposed of with the following direction:-

The third respondent, viz., the Commissioner, Villupuram Municipality, Villupuram, is hereby directed to consider the representation of the petitioner Association dated 16.10.2015 by regulating the street vending /hawking trade in M.G.Road, Badhusha Street and Nehru Street at Villupuram Town and also to constitute Town Vending Committee as per the Street Vendors (Protection of Livelihood & Regulation) Act 2014 within a month from the date of receipt of a copy of this order. Till such time, let the petitioners association be permitted to sell their commodities in the same place, in which they are doing their business subject to due restrictions. Consequently, connected Miscellaneous Petition is closed.

vsg/gv

s/d-
Vacation Officer

True Copy

Sub-Assistant Registrar

To

1. The Secretary
Government of Tamil Nadu
Municipal Administration Department,
Fort St.George,
Chennai - 600 009.

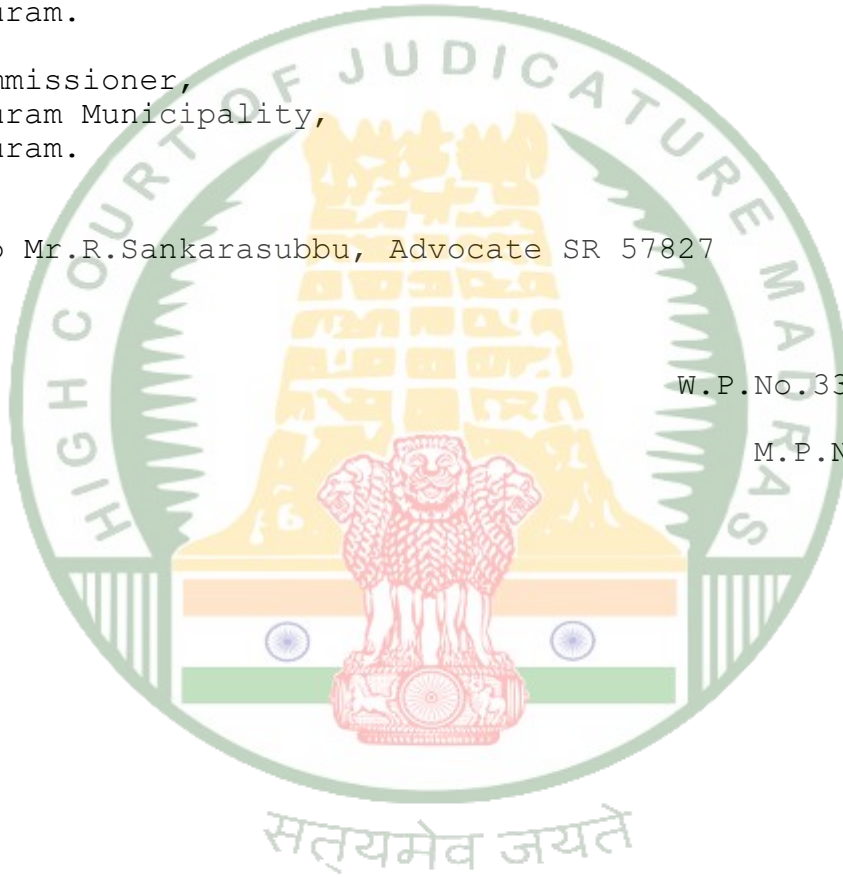
2. The District Collector,
Villupuram District,
Villupuram.

3. The Commissioner,
Villupuram Municipality,
Villupuram.

+ 2 ccs to Mr.R.Sankarasubbu, Advocate SR 57827

vs (co)
prk20/10

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