

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE DR. JUSTICE P. DEVADASS

W.P. No.23684 of 2014 and M.P. Nos.1 of 2014 and 2015

Annai Indira Gandhi Van, Auto Trailer Drivers
Owners Association
Regd. No.115 of 1989
represented by its Secretary V. Venkatesan
NSC Bose Road
(Near BSNL Telephone Exchange)
Chennai 600 001

Petitioner

Vs.

- 1 The Corporation of Chennai
represented by its Commissioner
Ripon Buildings
Chennai 600 003
- 2 The Deputy Commissioner of Police - Traffic North
Veppery
Chennai - 600 007
- 3 The Junior Engineer
Division No.57
Corporation of Chennai
Flower Bazaar, Chennai - 1

Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus forbearing the respondents from interfering with the lawful possession of the members of the petitioner's association adjacent to BSNL Telephone Exchange compound and pedestrian platform, situate in NSC Bose Road, Chennai - 1.

For petitioner	Mr.ChristopherVijay& G. Thangavel
For RR 1 & 3	Mr.R. Arunmozhi, Standing Counsel
For R2	Mrs. A. Srijayanthi, Spl. Govt. Pleader

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal.

2 This writ petition is filed seeking a writ of mandamus forbearing the respondents from interfering with the lawful possession of the members of the petitioner's association adjacent to BSNL Telephone Exchange compound and pedestrian platform, situate in NSC Bose Road, Chennai - 1.

3 The learned counsel for the petitioner submits that the members of the petitioner association have been parking their vans in the place in question for the last 25 years. The hawkers have been allotted this place for carrying on business. However, parking of vans by the members of the petitioner association is not creating any obstruction or nuisance in the area.

4 In response, the Corporation of Chennai has filed counter affidavit stating as under:

5 I respectfully submit that it is not possible to allow the petitioner to park the vehicle since this place is allotted by the Hawking Committee to Chennai Managara Desiya Siru Kadai Vyabarigal Sangam.

6 I submit that on receipt of the representation from the Sangam, the Chairman, Hawking Committee has sent a communication to the Regional Deputy Commissioner (North) stating that the place allotted to the Sangam has been encroached by the vehicles and requested the Commissioner, Corporation of Chennai to get in touch with the Traffic Police Department and to take steps to remove the parking of the private vehicles and police vehicles in the allotted places. Therefore, the members of Annai Indira Gandhi Van, Auto Trailer owners have been informed to vacate the places in front of BSNL Office.

7 I submit that as per the orders of the Chairman, Hawking Committee, to implement the allocation of vacant place already made to the 81 members of Chennai Managara Desiya Siru Kadai Vyabarigal Sangam, it is not necessary to vacate the petitioner from their place near BSNL Office in NSC Bose Road. Hence, the petitioners' association cannot claim that area for parking their vehicles."

5 In view of the categorical stand taken by the Chennai Corporation that no vehicle will be permitted to be parked in the area in question, as the same will create nuisance and obstruction to the hawkers, who have been allotted the same place, we are not disposed to pass any direction.

6 At this juncture, the petitioner association seeks liberty to make a fresh application for allotment of appropriate space for parking of mobile vans of its members. If an application is made by the petitioner association for allotment of a space elsewhere, the same may be considered by the authorities on its own merits.

7 We accordingly dispose of the writ petition, reserving liberty to the petitioner to make a fresh application to the respondents to consider and take a decision, on merits and in accordance with law.

The writ petition stands disposed of accordingly. Costs made easy. M.P. No.1 of 2014 (Injunction Petition) is closed. Since no orders are necessary to be passed in M.P. No.1 of 2015 (Impleading Petition), the said Miscellaneous Petition is also closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

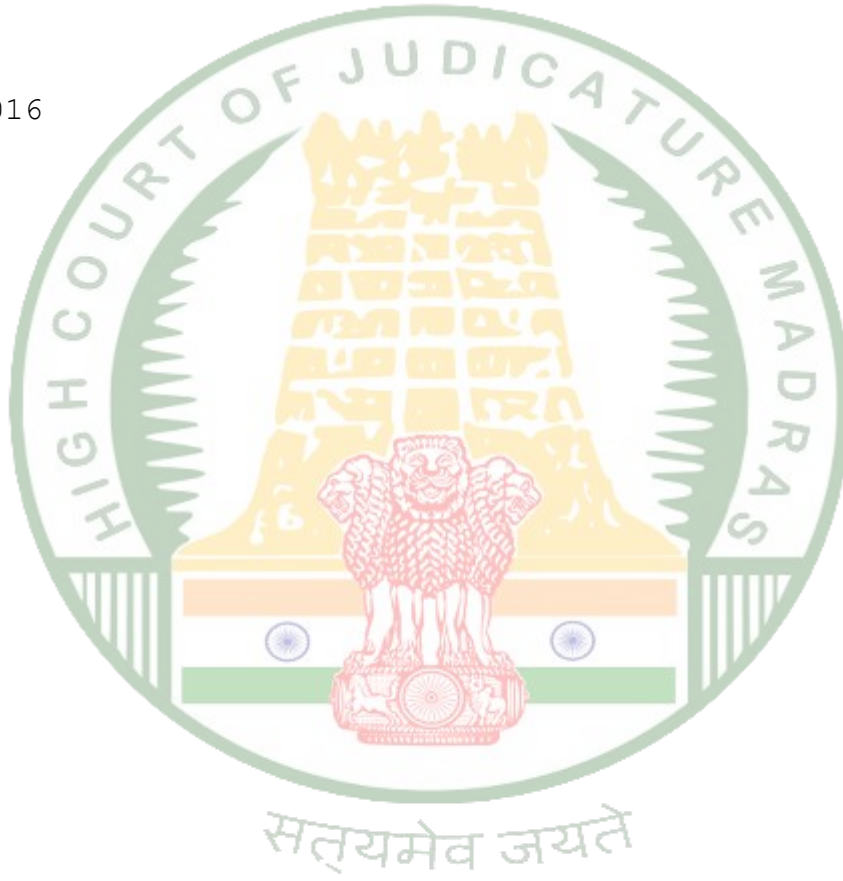
cad
To

- 1 The Commissioner,
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Chennai 600 003
- 2 The Deputy Commissioner of Police - Traffic North
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- 3 The Junior Engineer
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+2 ccs to M/S.R.Syed Mustafa Advocate sr.73
+1 cc to M/S.R.Arunmozhi Advocate sr.55
+1 cc to the Government pleader sr.276

W.P. No.23684 of 2014

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