

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2016

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

W.P.No.30551 of 2013
and
M.P.No1 of 2014

Mahfuzkhan Garden Muhalla
Residents Welfare Association,
Rep. by its General Secretary Mr.S.Syed Mohamed,
Old No.3, New nO.5, P.V.Iyer Street,
Chennai. ... Petitioner

Vs.,

- 1.State of Tamil Nadu
rep. by its Home Secretary,
Secretariat, Chennai-600 009.
- 2.The Commissioner of Police,
Egmore, Chennai-600 008.
- 3.The Commissioner of Corporation,
Chennai City, Rippon Building,
Chennai-600 003.
- 4.Chennai Parcel Lorry Owners' Welfare Association,
No.1/3, 1st Floor, Kandappa Chetty Street,
Chennai-600 001. ... Respondents

(R4 impleaded as per order
dt 6.12.2013 in M.P.1/2013)

Prayer: Writ Petition has been filed under Article 226 of The Constitution of India praying for issuance of a writ of Mandamus, directing the respondents to shift the lorry sheds, parcel booking offices, Godowns and Warehouses located in the Streets of Buddi Sahib Street, Hazarth Street, Mafus Khan Garden Street, Muthunaiken Street, Meera Street, Appu Maistry Street and Mailai Periya Thambi Street, within a reasonable time frame and prevent the plying of Lorries, Mini-Lorries, Vans, Goods vehicles in such streets in public interest.

For Petitioner : Mr.Hari Radhakrishnan

For Respondents : Mrs.P.Rajalakshmi, GA (For R1 & R2)
Mr.A.Nagarajan (For R3)

ORDER

This writ petition has been filed by the petitioner praying for issuance of a writ of Mandamus, directing the respondents to shift the lorry sheds, parcel booking offices, Godowns and Warehouses located in the Streets of Buddi Sahib Street, Hazarth Street, Mafuskhan Garden Street, Muthunaiken Street, Meera Street, Appu Maistry Street and Mailai Periya Thambi Street, within a reasonable time frame and prevent the plying of Lorries, Mini-Lorries, Vans, Goods vehicles in such streets in public interest.

2. In the affidavit filed in support of this writ petition, it has been averred by the petitioner as follows:-

2-1. The petitioner Society viz., Mahfuzkhan Garden Muhalla Residents Welfare Association consists of the residents of Buddi Sahib Street, Hazarth Street, Mafuskhan Garden Street, Muthunaiken Street, Meera Street, Appu Maistry Street, Mailai Periya Thambi Street, which are all part of the George Town Area, Chennai. Around 15,000 people are living in the residential units situated in the above said streets. The said streets are very narrow with a road width less than 25 feet and some streets are narrow with a road width less than 20 feet. There are several educational institutions and hospitals situated in the said streets. To name a few, Our Lady Centre Metric School for Girls, St. Francis Xavier Anglo Indian School for Girls, Anderson Girls Day Higher Secondary School for Girls, Don Bosco Preparatory School, St. Thomas Matriculation Higher Secondary School, Shri Sarathi Vidyalaya for Children, St. Columban's Anglo Indian Higher Secondary School for Girls, St. Mary's Anglo-Indian Higher Secondary School, St. Gabriels Higher Secondary School, St. Annes Girls Higher Secondary School, St. Dominic Savio Matriculation School, Bishop Corrie Anglo-Indian Higher Secondary School Sri Kanniga Parameswari Arts and Science College for Girls, Bharathi Womens College.

2-2. Apart from the residential units, in the said area, there are several Lorry Transport Offices, Godowns, Warehouses which store hazardous goods such as paper bale, paper rolls, chemical and oil which are highly flammables. The said transport offices and Godowns function throughout the day and night and several heavy vehicles such as lorries, mini-lorries, big vans and trucks are going in and out of the various streets mentioned above, for loading and unloading goods, such as iron and steel bars, sheets and other goods. The adversity faced by the residents has been reported in several newspapers and journals. However, the authorities have remained aloof to the problems faced by the residents.

2-3.It is further stated by the petitioner that due to the continuous movement of heavy vehicles lorries, mini-lorries and big vans in the said street, lot of nuisance is caused to the residents of the locality. School children are the worst affected as they find it extremely difficult even to cross the roads. In fact, the residents of Mahfuskhan (MK) Garden Street in Mannadi in North Chennai had given a compliant during May, 2006 to the 2nd respondent herein-Police to bring peace to their locality by asking the transporters to shift their sheds and godowns. The then Commissioner of Police had also assured action. However, the situation remains same till date, despite numerous representations.

2-4.Further, one of the residents of Buddi Sahib Street had filed a writ petition in W.P.No.34032 of 2012 with a prayer to regulate the movement of heavy vehicles in the said area. This Court vide order dated 08.01.2013 directed the Home Secretary to consider the proposal of the Joint Commissioner of Police (Traffic North) to revise the timings of heavy vehicle movement from 07.00 hours to 22.00 hours instead of 10.00 hours to 20.00 hours. This Court had passed the said order based on the averment made by the respondent in their counter affidavit to the effect that G.O.Ms.No.1182 Home (Trv.V), 24th August 1999 restricted the movement of heavy vehicles in Buddi Sahib Street from 10.00 hours to 20.00 hours and that a proposal has been sent to the Government to amend the timings in the said G.O. However, the factual position came to light subsequently that Buddi Sahib Street was not forming part of the said G.O.

2-5.The Home Secretary had delayed complying the High Court orders and consequently, a contempt petition in Cont.P.No.2188 of 2013 was filed before this Court. When the said contempt petition came up for the hearing on 20.09.2013, the respondent produced a copy of the letter issued by the Commissioner of Police, Chennai, to the Works Manager, Government Printing Press, Mint in Ref. Rc.no.tr.Imp.1(2)/037/0724/2013, dated 19.09.2013. By the said letter, the movement of heavy vehicles was restricted from 07.00 hours to 22.00 hours in certain streets which fall under C-5 Kotwalchavadi Police Station. However, the said notification did not include the above mentioned streets such as Buddi Sahib Street, Hazarth Street, Mafuskhan Garden Street, Muthunaiken Street, Meera Street, Appu Maistry Street, Mailai Periya Thambi Street.

2-6.The Government has issued G.O.No.62, dated 22.03.1999 under the Tamil Nadu Specific Commodities Markets (Regulation of Location) Act, 1961 declaring Sathankadu as the market area for iron and steel products. However, despite the said GO, several iron and steel godwons were not shifted from the George Town residential area. Hence, the petitioner-Society

vide their letter dated 11.02.2013 brought to the attention of the respondents 2 & 3 that godowns, warehouses and lorry sheds are still being operated in the George Town area. Since the said representation was not considered by the respondents, the petitioner has come forward with the present petition.

3.The 2nd respondent herein has filed a counter affidavit stating that as per G.O.Ms.No.1182, Home (TR.V) Department dated 24.08.1999, restriction was imposed prohibiting plying of heavy vehicles in few streets, which comes under C-5 Kothavalchavadi Police Station jurisdiction. The restriction imposed was between 10 hours and 20 hours. Immediately the said GO was given effect and so as to implement the order, the respondent has erected drop gates. The said gates would be opened at 20 hours and the same would be closed at 10 hours, the next morning. The loading and unloading processes would be done at that time. The said restriction has been followed strictly by the C-5 Kothavalchavadi Traffic Police, right from the year 1999 onwards. Any violation of the above said timing by the heavy vehicles would be imposed penalty as per the Motor Vehicles Act. The lorry owners have also co-operated and maintained the traffic in and around the said jurisdiction as per the condition imposed in G.O.Ms.No.1182. Due to floating population in the above said streets, no doubt, the general public is suffering and facing too much of traffic, for which the respondents have conducted several joint committee meetings along with all the commercial vehicle owners (Heavy, Medium and others), Drivers' Association, Laborers' Association, Traders Association and the residents of the said area to maintain the strict adherence of traffic rules. However, the said congestion is not only due to movement of heavy vehicles, but it is also due to movement of medium commercial vehicles, transaction at shops and godown of good grain traders etc. Due to the strict implementation of the traffic rules, as per the conditions imposed in G.O.Ms.No.1182, several measures have been implemented for safe and congestion free traffic movements so as to help the general public and the residents of the said area. A Notification was passed by the Police Commissioner of Greater Chennai vide Notification Rc.No.Tr.Imp.1(2)/307/0724/2013, dated 19.09.2013, to restrict the entry of vehicles between 7 to 22 hours, in order to avoid traffic congestion on roads which comes under C-5, Kothavalchavadi Police Station Limit. Moreover there are few schools and education institutions in the above mentioned area for which more police personnel are deployed to maintain smooth traffic for general public. There are several drop gates located in order to maintain and to regulate the traffic at P.V.Iyer Street, Appu Street, Prakasm Saalai. It is further stated in the counter, that the Lorry Owners' Association has also made several representations to the government to allot them a place for their business near Koyambedu and the same is under consideration before the

Government. If the plea of the Lorry Owners' Association would be fulfilled by the Government, there will not be any nuisance or disturbance.

4. I have carefully heard the submissions made on either side and perused the materials available on record.

5.A copy of G.O.Ms.No.1182, Home (TR.V) Department, dated 24.08.1999, was produced by the learned counsel for the petitioner. On perusal of the said GO, I find that the said GO prohibits the movement of all kinds of heavy vehicles on the 23 roads at George Town and Park Town areas, from 10.00 hours to 20.00 hours, in the City of Chennai. But, the streets mentioned by the petitioner herein in the affidavit have not been covered under the said GO. Even as per the counter affidavit filed by the 2nd respondent, the general public in the streets mentioned by the petitioner herein are suffering and facing too much of traffic congestion, in spite of the efforts being taken by the respondents to maintain the strict adherence of the Traffic Rules.

6.Considering the facts and circumstances of the case, this Court directs the petitioner to give fresh representation to the 1st respondent requesting to prohibit the movement of all kinds of heavy vehicles in the streets mentioned in the affidavit by the petitioner, within a period of one week from the date of receipt of a copy of this order. On receipt of such representation, the 1st respondent is directed to consider the same and to pass an appropriate order, on merits and in accordance with law, by affording an opportunity of personal hearing to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

With the above directions, this writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

To,

1.The Home Secretary,
State of Tamil Nadu
Secretariat, Chennai-600 009.

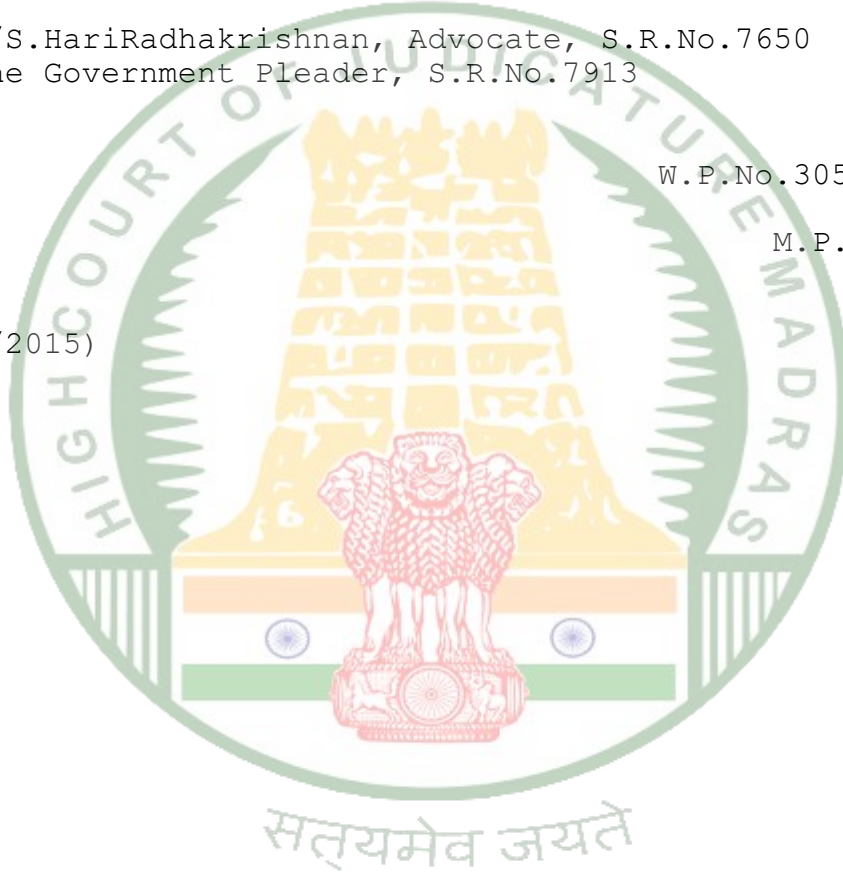
2.The Commissioner of Police,
Egmore, Chennai-600 008.

3.The Commissioner of Corporation,
Chennai City, Rippon Building,
Chennai-600 003.

+lcc to M/S.HariRadhakrishnan, Advocate, S.R.No.7650
+lcc to the Government Pleader, S.R.No.7913

W.P.No.30551 of 2013
and
M.P.No1 of 2014

ala(CO)
srg(25/02/2015)



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