

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.24349 of 2016
and WMP.No.20824 of 2016

- 1 Mahatma Gandhi Sirukadai Vyabarigal Nala Sangam
Rep by its Secretary
D.Sakthivel
No.1, Rangan Street PCO Booth
Off Usman Road, Near GRT
T. Nagar Chennai- 600 017 ...Petitioner
- Vs.
- 1 The Secretary to Government
Department of Local Administration
Government of Tamil Nadu
Secretariat
Chennai-600 009.
- 2 The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai-600 003.
- 3 The Assistant Commissioner
Corporation of Chennai
Old Zone VIII New Zone X
Kodambakkam
Chennai-600 024.
- 4 The Commissioner of police
Chennai City
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 of India praying to issue a Writ of Mandamus, directing the respondents herein to implement the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014, Act 7 of 2014 The Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme 2015 and also The Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2015 and the order passed by the Honourable Supreme in Civil Appeal Nos.4156 of 2002 (Batch) dated 09.09.2013 and the order dated 30.09.2015 of this Honourable Court in W.P. No. 18397 of 2014 etc in respect of the petitioner members and register them as street vendors and grant them the necessary licence or certificate to hawk or street vending on Rangan Street Off Usman Road, near GRT, T.Nagar, Chennai 17.

For Petitioner : Mr.J.Saravana vel

For Respondents : Mrs.A.Sri Jayanthi
Spl.G.P. For R1, R4 to R6
Mr.R.Arunmozhi for R2 & R3

O R D E R

(Order of the Court was made by HULUVADI G. RAMESH,J.)

Heard Mr.J.Saravana vel, learned counsel for the petitioner-Sangam, Mrs.A.Sri Jayanthi, learned Special Government Pleader, accepting notice for respondents 1, 4 to 6 and Mr.R.Arunmozhi, learned counsel accepting notice for Respondents 2 and 3.

2. According to the petitioner-Sangam, the respondents, without implementing or giving effect to the Street Vendors (Protection of Livelihood and Regulation of Street Vending) 2014 Act and Scheme, trying to harrass and attempt to evict their members/vendors. Further it is stated in ground (f) as under:-

As per the provisions of the Act, Scheme and Rules:

- (1) Town vending committee is to be formed.
- (2) Survey to be conducted to identify street vendors
- (3) Vending zones to be identified
- (4) No street vendor shall be evicted till certificate of vending issued and relocated.

Thus, the petitioner is before this court for a direction to the respondents to implement the provisions of the Act and the order dated 30.09.2015 of this Court passed in W.P.No.18397 of 2014 and register them as street vendors.

3. The issue raised in the writ petition relates to the regulation of street vendors/hawkers and in this context the Apex Court, in the case of Maharashtra Ekta Hawkers Union and another v. Municipal Corporation, Greater Mumbai and others, (2014) 1 SCC 490, more particularly in paragraph 21.15, has observed that all the existing street vendors/hawkers operating across the country shall be allowed to operate till the exercise of registration and creation of vending/hawking zones is completed in terms of the 2009 Policy. Once that exercise is completed, they shall be entitled to operate only in accordance with the orders/directions of the Town Vending Committee concerned.

4. However, the case of the petitioner has to be considered by the Vending Committee constituted in this regard on their establishing prima facie the running of the business in the areas in question. In these circumstances, since the Town Vending committee has been vested with the power to take a decision in accordance with law to save the interest of the persons who are vending on the streets as hawkers on the basis of the report of the Corporation or police officials and any other evidence available, without expressing anything on merit, we dispose of the writ petition with liberty to the parties, namely, the petitioner, the contesting respondents as well as the Corporation to approach the Vending Committee constituted in this regard by the Government and to raise all the contentions before such Committee on the basis of the reports of the official respondents and on such representation, it is for the Vending Committee to take a decision in accordance with law as to the entitlement of the petitioner, within a period of two months from the date of receipt of a copy of this order, on hearing the parties. Consequently, W.M.P., is closed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

nvsri
To

- 1 The Secretary to Government
Department of Local Administration
Government of Tamil Nadu
Secretariat
Chennai-600 009.

- 2 The Commissioner
Corporation of Chennai
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R-4, Pondy Bazaar Police Station
T.Nagar, Chennai-600 017.

+1cc to M/S.R.Arunmozhi, Advocate sr.47571

+1cc to the Government Pleader sr.47700

+1cc to Mr.J.Saravana vel, Advocate Sr.47106 [06/10/2016]

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srg 15/09/2016

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