

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:20.07.2016

CORAM

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

Writ Petition No.24705 of 2016
and
WMP.No.21096 of 2016

Kanchana

.. Petitioner

Vs.

- 1.The State Commissioner for Differently Abled
O/o. State Commissioner for Differently Abled
J.N.Ring Road, Chennai-600 078.
 - 2.The Secretary to Government
Local Administration Department
Government of Tamil Nadu
Fort St. George, Chennai-600 009.
 - 3.The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai-600 003.
- ..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the third respondent, their officials, servants from in any manner interfering with the running of the petitioner's bunk shop at Wellington Estate, near to In-Gate, Ethiraj Salai, Chennai-600 008 by selling flower items till the Township Vending Committee decides as per the provisions of the Street Vendors (Protection of Livelihood Regulation) Act.

For Petitioner : Mr.R.Kamaraj
For R1 & R2 : Mr.P.S.Sivashanmuga Sundaram
For R3 : Mr.V.C.Selvasekaran

ORDER

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

This Writ Petition is filed praying to issue a Writ of Mandamus forbearing the third respondent, from interfering with the running of the petitioner's bunk shop, till the Township Vending Committee decides as per the provisions of the Street Vendors (Protection of Livelihood Regulation) Act.

2. The case of the petitioner is that she is a physically handicapped (Differently Abled) person and running a bunk shop at Wellington Estate, Ethiraj Salai, Chennai- 600 008 for the past six months by selling flower items in a hygienic manner and the bunk shop is in no way disturbing the general public or for free flow of traffic. According to the petitioner, the Central Government has enacted the Street Vendors (Protection of Livelihood Regulation) Act, 2014 safeguarding the street vendors by regulating their business, however, the State Government and the local body have not taken any steps to regulate the street vending. In view of the same, the officials of the third respondent are trying to interfere with the running of the petitioner's bunk shop stating it as "unauthorized". Hence, she submitted a representation dated 02.06.2016 to the 3rd respondent requesting not to interfere with the running of her bunk shop and the same is pending without any progress. Therefore, the petitioner is before this Court.

3. Learned counsel for the petitioner submits that as per Section 43 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1994, the petitioner is having the statutory right to claim the right of business. Learned counsel also submits that in identical circumstances, in W.P.No.18677 of 2014 batch, this Court has held that till the constitution of Town Vending Committee and its policy and consideration by the committee, there shall be no threat with regard to running of the bunk shops. Hence, he prays for the similar order in this writ petition as well.

4. Heard the learned Special Government Pleader appearing for respondents 1 and 2 and the learned standing counsel for the third respondent.

5. Considering the submissions made on either side, we have perused the order of this Court dated 03.09.2015 passed in W.P.No.18677 of 2014 batch, wherein, it is pointed out that the vendors have to await the decision of the constitution of the Committee, its policy and thereafter consideration by the Committee and thus they would have no threat in the mean time. The Division Bench of this court also directed the Corporation to take necessary action. This Court, however, directed the vendors/petitioners therein as under:-

"7. The petitioners are also not entitled to either increase the size of their bunk shops or to spread beyond the periphery of the bunk still their cases are considered."

6. Following the above order rendered in W.P.No.18677/2014-A.Sekar vs. The State Commissioner of Differently Abled Persons, we direct the respondents 1 to 3 to consider the case of the petitioner in the light of the decision (cited supra) and frame the policy and do the needful in accordance with law. We make it clear that the petitioner is not entitled to either increase the size of her bunk shop or to spread beyond the periphery of the bunk, till her case is considered by the respondents on a policy decision.

7. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected WMP is closed.

rk

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The State Commissioner for Differently Abled,
O/o. State Commissioner for Differently Abled
J.N.Ring Road, Chennai-600 078.

2.The Secretary to Government
Local Administration Department
Fort St.George, Chennai-600 009.

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

+ 1 cc to M/s.R.Kamaraj, Advocate Sr 41223

+ 1 cc to The Govt.Pleader, 41292

KR/9/8/16

W.P.No.24705 of 2016