

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

WA.No.1510/2016

C.Jayakumar

Appellant

Vs.

1.The Commissioner
Corporation of Chennai,
Chennai.

2.The Assistant Commissioner
Corporation of Chennai
Ambattur Zone-7, Ambattur
Chennai-53.

Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order of the learned Single Judge in WP.No.24098/2016 dated 14.07.2016.

Writ petition filed u/s 226 of the Constitution of India, praying for the issuance of a Writ of mandamus to direct the respondents to consider the representation of the petitioner dated 22.06.2016 for allotment of bunk shop to the petitioner in any place nearby the petitioners residence to eke out the petitioners livelihood.

For Appellant : Mr.N.Suresh
For RR 1 & 2 : Mr.R.Arunmozhi
Standing Counsel

JUDGMENT

Heard Mr.N.Suresh, learned counsel for the appellant and Mr.R.Arunmozhi, learned Standing Counsel accepting notice on behalf of the respondents and with the consent on either side, the writ appeal is taken up for final disposal at the stage of admission.

2 The Appellant / writ petitioner has preferred the instant Writ Appeal as against the order dated 14.07.2016 made in WP.No.24098/2016 passed by the Learned Single Judge.

3 The Learned Single Judge, while passing the impugned order in WP.No.24098/2016 on 14.07.2016, had observed the following:-

".....

4 There is no dispute with regard to the status of the petitioner that he is a physically handicapped person, as it is proved by documents. However, it will not entitle him to apply to the respondents to allot a Bunk Shop in any place. If a public place is to be allotted to a Bunk Shop, the same will be done by making suitable advertisements and if there is any provision for allotting the same to Physically Handicapped persons, the same will be done. Most of the persons who are approaching this Court claiming themselves to be physically handicapped persons are choosing very important places viz., shopping Malls, Government Companies, Industries and invariably they seek for road margins and platforms for allotment of shop. Road margins and Platforms are meant for Pedestrians. However, pedestrians are not allowed to use the platforms and in view of the same, naturally, they are constrained to use the road, resulting in affecting the traffic flow and also causing accidents.

5 In view of the above and in view of the fact that since no statutory right is available to the petitioner to seek a writ of mandamus to allot the Bunk Shop, the Writ Petition fails and the same is dismissed. No costs."

4 Assailing the validity, legality of the impugned order dated 14.07.2016 in WP.No.24098/2016 passed by the learned Single Judge, the learned counsel for the appellant contended before this Court that the impugned order of the learned Single Judge, in dismissing the writ petition, is against law and further, it is contrary to the facts and merits of the case.

5 The learned counsel for the appellant submitted that the learned Single Judge has failed to appreciate the fact that the State under the Persons with Disabilities [Equal Opportunities, Protection of Rights and Full Participation] Act, 1995, has an obligation under law to provide an

employment opportunity to the writ petitioner / appellant herein and as per section 38 of the said Act, the Local Authorities and the Government, shall, by notification, formulate schemes for ensuring employment to persons of disabilities.

6 Continuing further, the learned counsel for the appellant submitted that the learned Single Judge had failed to see that the writ petitioner / appellant herein had sought only for the consideration of his representation in view of his 60% disability on the right side.

7 This Court heard the submissions of Mr.R.Arunmozhi, learned Standing Counsel appearing for the respondents 1 and 2 / Corporation of Chennai and perused the materials placed before it, in particular, the order impugned in this writ appeal dated 14.07.2016 made in WP.No.24098/2016.

8 As evidenced from paragraph 5 of the impugned order dated 14.07.2016, [cited supra], it is seen that the learned Single Judge has made an observation that the petitioner has no statutory right to seek a writ of mandamus to allot a Bunk Shop, which, in the considered opinion of this Court, requires modification.

9 Accordingly, the said observation of the learned Single Judge is modified and the petitioner has got every right to seek for an employment under the the Persons with Disabilities [Equal Opportunities, Protection of Rights and Full Participation] Act, 1995. Further, this Court is of the view that whenever vacancies arise and as when a Notification is issued by the Government and the Local Authorities, viz., the Corporation of Chennai, to fill up the said vacancies, the case of the petitioner would be considered on par with the other persons, on merits and in accordance with law and he would be preferred for allotting a Bunk Shop, as sought for by him, in due course of time.

10 With the above observations, the writ appeal stands disposed of. No costs.

Sd/-
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

1.The Commissioner
Corporation of Chennai,
Chennai.

2.The Assistant Commissioner
Corporation of Chennai
Ambattur Zone-7, Ambattur
Chennai-53.

+1 cc to Mr.N.Suresh, Advocate SR.NO..70014

+1 cc to Mr.R.Arunmozhi, Advocate SR.NO..69879

WA.No.1510/2016

MMP 29.12.2016
CO(SCD)



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