

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.8.2016

CORAM

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

W.P.No.28938 of 2016
and
W.M.P.No.25016 of 2016

M.Kalaingnar Running Bunk Shop
at Kun Commercial Vehicles Pvt. Ltd.(AT)
Near Bharat Benz Authorized Dealers
S.No.210/1A3 Bi-Pass Road
Poonamallee Chennai-600 056 Petitioner

Versus

- 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 Tamilnadu
Fort St. George Chennai-600 009
- 3 The Commissioner
Corporation Of Chennai
Rippon Buildings
Chennai-600 003

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus forbearing the 3rd respondent, their officials, servants from in any manner interfering with the running of the petitioner's bunk shop at Lake Area 2nd Cross Street Nungambakkam Chennai 600 034, by selling tea, coffee and other food items till the Township Vending Committee Decides as per the provisions of the Street Vendors (Protection of Livelihood Regulation) Act.

For petitioner : Mr.L.Chandrakumar
For R1 & R2 : Mr.A.Srijayanthi,
Special Govt. Pleader
For R3 : Mr.A.Nagarajan

ORDER

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

The writ petition has been filed seeking issuance of a writ of mandamus forbearing the 3rd respondent, their officials, servants from in any manner interfering with the running of the petitioner's bunk shop at Lake Area 2nd Cross Street Nungambakkam Chennai 600 034, by selling tea, coffee and other food items till the Township Vending Committee Decides as per the provisions of the Street Vendors (Protection of Livelihood Regulation) Act.

2. The petitioner is a physically handicapped (Differently Abled) person and running bunk shop in the aforementioned address, by selling tea, coffee and food items in a hygienic manner and the bunk shop is in no way disturbing the general public or for traffic.

(ii) It is the further case of the petitioner that the Central Government has enacted "The Street Vendors (Protection of Livelihood Regulation) Act, 2014, however, the State Government and the local body have not taken any steps to regulate the street vending.

(iii) It is also stated that the Officials of 3rd respondent are trying to interfere with the running of the bunk shop stating it as "unauthorized" and hence, a representation has been submitted to the 3rd respondent setting out the facts.

(iv) It is further stated that 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.

(v) It is also stated that as per Section 43 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1994, the petitioner has got the statutory right to claim the right of business.

3. We have heard the learned counsel appearing on either side and perused the judgment 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 till their cases are considered."

4. Following the above judgment 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 above judgment (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 the bunk shop or to spread beyond the periphery of the bunk till it is considered by the respondents on a policy decision.

5. The Writ Petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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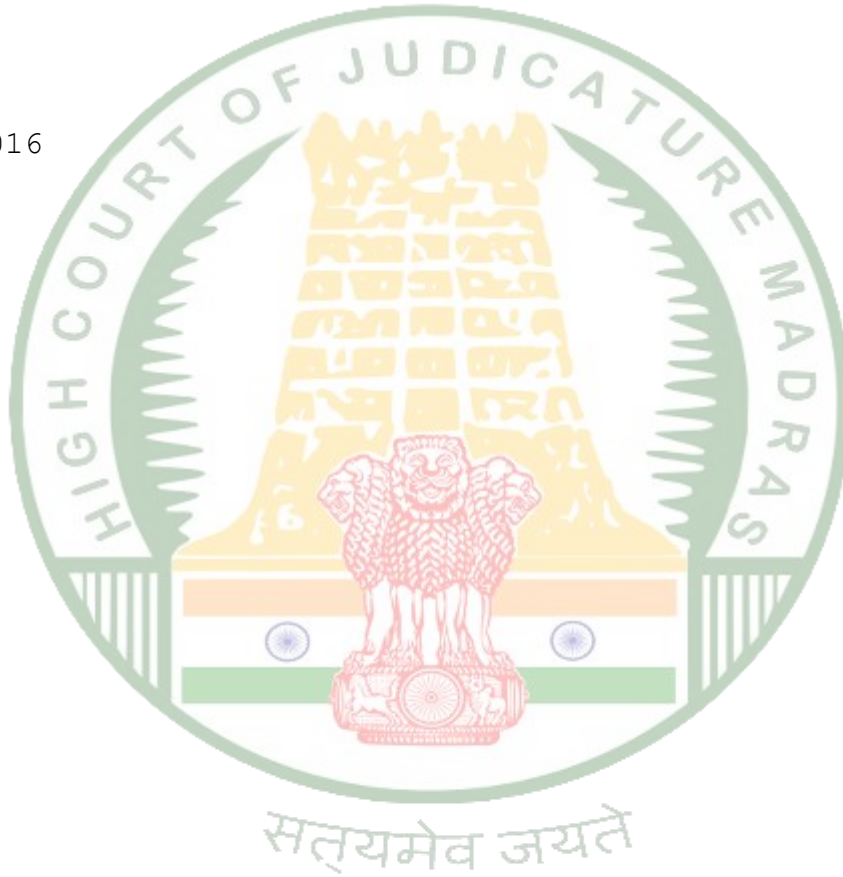
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+1 cc to Mr.L.Chandrakumar Advocate sr 48417
+1 ccs to Government Pleader sr 48605

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