

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2016

CORAM

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

W.P.No.29243 of 2016
and
WMP.No.25278/2016

S.Abdul Rahman ... 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

Petition under Article 226 of the Constitution of India, praying for the issue of 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 near Taj Bus Stand, Nungambakkam High Road, Chennai 600 034 by selling tiffin and meals 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 Respondents:: Mr.R.Prathapkumar
Additional Government Pleader
for R1 & R2
Mr.R.Arunmozhi for R3

ORDER

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

The petitioner seeks for issuance of 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 near Taj Bus Stand, Nungambakkam High Road, Chennai 600 034 by selling tiffin and meals items, till the Township Vending Committee decides as per the provisions of the Street Vendors (Protection of Livelihood Regulation) Act.

2. Heard the learned counsel for the petitioner. Mr.R.Prathap Kumar, learned Additional Government Pleader takes notice on behalf of the first and second respondents and Mr.R.Arunmozhi, learned standing counsel takes notice on behalf of the third respondent.

3. It appears that the petitioner is a physically handicapped (Differently Abled) person and running the bunk shop in the aforementioned address by selling tiffin and meals items in a hygienic manner and the said bunk shop is no way disturbing the general public or the traffic. It is his further case 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. It is also stated that the officials of the third respondent are trying to interfere with the running of his bunk shop stating it as "unauthorised" and hence, he submitted a representation to the third respondent setting out the facts. 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 the running of the bunk shops. Even as per Section 43 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1994, he is having the statutory right to claim the right of business.

4. As the issue raised in this writ petition has already been considered by a Division Bench of this Court in W.P.Nos.18677 of 2014 etc., dated 3.9.2015 (A.Sekar v. The State Commissioner of Differently Abled Persons), 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 meantime and that the Division Bench also observed that the petitioners/vendors are also not entitled to either increase the size of their bunk shops or to spread beyond the periphery of the bunk shops till their cases are considered by the respondents, following the aforesaid judgment, we direct the respondents 1 to 3 to consider the case of the petitioner in the light of the aforesaid judgment 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 his bunk shop or to spread beyond the periphery of the bunk shop till his case is considered by the respondents on a policy decision. The writ petition is disposed of accordingly. Consequently, W.M.P.No.25278 of 2016 is closed. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

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Local Administration Department
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3. The Commissioner
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Rippon Buildings
Chennai 600 003

+1 cc to M/s.R.Kamaraj,advocate,sr.48215

+1 cc to M/s.R.Arunmozhi,advocate,sr.48103

+1 cc to Govt.Pleader,sr.48195.

rp(co)
krd 2/9

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W.P.No.29243 of 2016

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