

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2016

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 32068 of 2016
&
W.M.P. No. 27813 of 2016

B. Venkatesan ... Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai 600 003.
2. The Zonal Officer,
Zone 10, Greater Chennai Corporation,
117, NSK Salai,
Kodambakkam,
Chennai - 24.
3. The Assistant Zonal Officer,
Zonal Office, No.X Ashok Nagar,
K.K. Nagar Zone, Chennai.

... Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records of Order dated 28.04.2016 in Z.X.O.X. C.No. / 3842/2016 passed by the 2nd respondent and quash the same and further direct the respondent to give permission to the petitioner to put up tea shop near 11H Bus Stand, 11th Avenue, Ashok Nagar, Chennai 78.

For Petitioner : Mr.A. Asuvathaman

For Respondents : Mr.P.V. Selvakumar

O R D E R

The petitioner has approached this Court challenging the order passed by the 2nd respondent rejecting the petitioner's representation to put up a tea shop near 11H Bus Stand, 11th Avenue, Ashok Nagar, Chennai 78.

2. The petitioner contends that he is a differently abled person and for his livelihood, he wanted to start a tea shop near 11H Bus Stand, 11th Avenue, Ashok Nagar, Chennai 78. Therefore, he gave a representation dated 25.09.2015 to the respondents seeking permission to start a tea vending shop. However, the said representation was not considered. Hence, the petitioner filed W.P. No. 6234 of 2016 for a Writ of Mandamus directing the respondents to consider his representation dated 25.09.2015. This Court, by order dated 22.02.2016, disposed of the writ petition with a direction to the respondents to consider and pass appropriate orders on the said representation of the petitioner. Pursuant to the said direction, the 2nd respondent considered the representation of the petitioner and rejected the same by order dated 28.04.2016. Aggrieved by the said order, the petitioner is before this Court.

3. Heard Mr.A. Asuvathamam, learned counsel for the petitioner, who would submit that the petitioner is a physically handicapped person and to earn his livelihood, he is entitled to put up a bunk shop. The learned counsel would further submit that though, in the impugned order, it is stated that the petitioner obtained orders from this Court by suppressing material facts, according to the learned counsel, the petitioner did not suppress any material fact to obtain orders in the earlier writ petition and that the petitioner never submitted before this Court that he is running a tea stall and he only sought permission to start a new one. Therefore, according to the learned counsel, the impugned order is liable to be set aside.

4. This Court agrees with the submission of the learned counsel for the petitioner, on a perusal of the representation given by the petitioner dated 25.09.2015, that he did not state that he was running a bunk shop and that he had only sought permission to start a new bunk shop. When the petitioner did not suppress any material fact to obtain orders from this Court, the observation made in the impugned order that the petitioner obtained orders by suppression of material fact has to be necessarily deleted. However, it has to be stated that the deletion of the said observation would not enable the petitioner to get the permission, sought by him, from this Court, to run a bunk shop.

5. First of all, the petitioner's representation should not have been directed to be considered. The petitioner has got no right much less any statutory right to put up any bunk shop, that too, on road margins and platforms, which are meant only for pedestrians. If road margins and platforms are allowed to be

occupied by persons, similarly placed like the petitioner, then the public would be compelled to use the road meant for movement of traffic resulting in accidents and it would definitely go against public interest. Therefore, the relief sought by the petitioner, at any cost, cannot be granted. The writ petition stands dismissed. No costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

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Kodambakkam,
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3. The Assistant Zonal Officer,
Zonal Office, No.X Ashok Nagar,
K.K. Nagar Zone, Chennai.

+1cc to Mr.A. Asuvathaman, Advocate, S.R.No.52301

W.P. No. 32068 of 2016

PA(CO)
CA(04/10/2016)

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