

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-09-2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.32639 of 2016

Parthasarathy Nagar Market Street Vendors Association,
represented by

- 1.A.Nawazudeen
- 2.M.Ayub
- 3.M.Settu
- 4.H.Siraj
- 5.M.Maju
- 6.M.Rahim
- 7.H.Yusuf
- 8.M.Ibrahim
- 9.I.Hussain Basha
- 10.K.Ponniammal

...Petitioners

-vs-

1. The Commissioner of Police,
O/o.The Commissioner of Police,
Greater Chennai,
EVK Sampath Road,
Vepery,
Chennai-600 007.

2. The Commissioner,
Greater Corporation of Chennai,
Ripon Building,
Chennai-600 003.

3. The Zonal Officer,
Zone -4,
Chennai Corporation,
Thandayuarpettai,
Chennai- 600 021.

4. The Inspector of Police,
H-1 Police Station,
Old Washermanpet,
Chennai-600 021.

...Respondents

Writ Petition under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, directing the respondents to consider the petitioner's representation, dated 22.08.2016, directing the second respondent to issue "Certificate of Vending" as per the provisions of the Street Vendors Act, 2014, (Central Act 7 of 2014), to all the petitioners herein and till then direct the first and fourth respondents not to disturb the carrying on day to day to business being carried on at Parthasarathy Market, Royapuram, 48th Ward, Chennai-600 021.

For petitioners : Mr.M.Aravind Subramaniam

For respondents 1 & 4 : Mr.R.Prathapkumar,
Addl.Govt.Pleader.

For respondents 2 & 3 : Mr.V.C.Selvasekaran

O R D E R

(Order of the Court was made by Huluvadi G.Ramesh, J.)

This Writ Petition has been filed praying for a mandamus, to direct the respondents to consider the petitioners' representation, dated 22.08.2016; direct the second respondent to issue "Certificate of Vending" as per the provisions of the Street Vendors Act, 2014, (Central Act 7 of 2014), to all the petitioners herein and till then direct the first and fourth respondents not to disturb the carrying on day to day to business being carried on at Parthasarathy Market, Royapuram, 48th Ward, Chennai-600 021.

2. According to the petitioners, they are carrying on the business of vegetables, fish, meat and other essential food items required for day to day life of the people as street vending at Parthasarathy Market, Royapuram, 48th Ward, Chennai-600 021, for the past 30 years without any hindrance to the general public; the Fisheries Department has constructed a temporary zink sheet over the shops in which they are carrying on business and named the same as "Amma Market", but, one person by name Sapura has occupied the space of Amma Market and constructed mini swatter gates and not allowed the petitioners to carry on their business. In this regard, the petitioners have given several representations to the respondents to immediately restrain the said Sapura and to allot the newly constructed shops, but there is no response from the respondents. Hence, they have approached this Court.

3. Heard the learned counsel for the parties.

4. The issue raised in this Writ Petition relates to the regulation of street vendors/hawkers and, in this context, the Apex Court, in the case of Maharashtra Ekta Hawkers Union and another v. Municipal Corporation, Greater Mumbai and others, (2014) 1 SCC 490, more particularly, in paragraph 21.15, has observed that all the existing street vendors/hawkers operating across the country shall be allowed to operate till the exercise of registration and creation of vending/hawking zones is completed in terms of the 2009 policy. Once that exercise is completed, they shall be entitled to operate only in accordance with the orders/directions of the Town Vending Committee concerned.

5. In view of the above, the case of the petitioners has to be considered by the Vending Committee, constituted in this regard, on their establishing prima facie the running of their business in the area in question. In these circumstances, since the Town Vending Committee has been vested with the power to take a decision in accordance with law to save the interest of the persons who are vending on the streets as hawkers on the basis of the report of the Corporation or police officials and any other evidence available, without expressing anything on merit, we dispose of this Writ Petition, with liberty to the parties, namely, the petitioners, the contesting respondents as well as the Corporation and the police officials to approach the Vending Committee constituted in this regard by the Government and to raise all the contentions before such Committee on the basis of the reports of the official respondents and, on such representation, it is for the Vending Committee to take a decision in accordance with law, as to their entitlement, within a period of two months from the date of receipt of a copy of this order, on hearing the parties. Consequently, the connected W.M.P.No.28278 of 2016 is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

dixit

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To

1. The Commissioner of Police,
O/o.The Commissioner of Police,
Greater Chennai,
EVK Sampath Road,
Vepery,
Chennai-600 007.
2. The Commissioner,
Greater Corporation of Chennai,
Ripon Building,
Chennai-600 003.
3. The Zonal Officer,
Zone -4,
Chennai Corporation,
Thandayuarpettai,
Chennai- 600 021.
4. The Inspector of Police,
H-1 Police Station,
Old Washermanpet,
Chennai-600 021.

1 CC to Mr.M.Aravind Subramaniam, Advocate, SR. 54783

2 CCs to Government Pleader, SR 54697 54602

W.P.No.32639 of 2016

SV (CO)
PSI 06/10/2016

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