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

Writ Petition Nos.33444 and 33445 of 2016

Kuppusamy ..Petitioner in W.P.No.33444/2016

C.Hariprasath ..Petitioner in W.P.No.33445/2016

Vs.

1.The State Commissioner for
Differently Abled
O/o. State Commissioner for Differently Abled
J.N.Ring Road
Chennai-600 078

2.The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai-600 003 ...Respondents in both WPs.

W.P.No.33444/2016:- Writ Petition filed under Article 246 of the Constitution of India praying to issue a Writ of Mandamus forbearing the 2nd respondent, their officials, servants from in any manner interfering with the running of the petitioner's bunk shop just opposite to Gandhi Irwin Park, Gandhi Irwin Salai, Egmore, Chennai-600 008, wherein 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.

W.P.No.33445/2016:- Writ Petition filed under Article 246 of the Constitution of India praying to issue a Writ of Mandamus forbearing the 2nd respondent, their officials, servants from in any manner interfering with the running of the petitioner's bunk shop at No.150, Montieth Road (Arasamaram), Egmore, Chennai-600 008, wherein 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.

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For Petitioners in both WPs. : Mr.R.Kamaraj

For Respondents in both WPs. : Mr.R.Prathapkumar
Additional Government Pleader
for R1

Mr.R.Arunmozhi for R2

C O M M O N O R D E R

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

These Writ Petitions are filed praying to issue Writ of Mandamus, forbearing the 2nd respondent, from interfering with the running of the petitioners' bunk shops, till the Township Vending Committee decides as per the provisions of the Street Vendors (Protection of Livelihood Regulation)Act.

2. The case of the petitioners is that they are physically handicapped (Differently Abled) persons and running bunk shops in the aforementioned address, by selling tea, coffee and food items in a hygienic manner and the bunk shops are in no way disturbing the general public or for traffic.

(ii) It is their 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.

(iii) It is also stated that the Officials of 2nd respondent are trying to interfere with the running of their bunk shops stating it as "unauthorized" and hence, they submitted a representation to the 2nd respondent setting out the facts.

(iv) It is 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, they are having the statutory right to claim the right of business.

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3. We have heard Mr.R.Kamaraj, the learned counsel for the petitioner; Mr.R.Prathapkumar, learned Additional Government Pleader, who accepts notice for the 1st respondent; and Mr.R.Arunmozhi, learned counsel, who accepts notice for the 2nd respondent 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 still 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 and 2 to consider the case of the petitioners 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 petitioners are not entitled to either increase the size of their bunk shops or to spread beyond the periphery of the bunk still their cases are considered by the respondents on a policy decision.

5. These Writ Petitions are disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The State Commissioner for
Differently Abled
O/o. State Commissioner for Differently Abled
J.N.Ring Road
Chennai-600 078

https://hcservices.ecourts.gov.in/hcservices/

2.The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai-600 003

+2cc to M/S.R.Kamaraj, Advocate Sr.54793, 54794[14/10/2016]
+1cc to M/S.R.Arunmozhi, Advocate Sr.54262
+1cc to the Government Pleader Sr.54701

ssk[co]
srg 07/10/2016

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