

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-10-2016

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.35631 of 2016
and WMP No.30625 of 2016

S.Joseph

...

Petitioner

vs

1.The State Commissioner for differently Able
No.15/1, Model School Road,
Thousand Lights, Chennai - 3.

2.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai - 3.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the 2nd respondent, his officials, servants from interfering with the petitioner's Bunk Shop business of selling coffee, tea and other allied eatable items at M.T.H. Road, nearby the Loucuse Bus Stand, Paadi, Chennai - 50 and consequently direct the 2nd respondent to grant license for running the bunk shop by considering the petitioner's representation dated 15.09.2016.

For Petitioner : Mr.T.Meganathan

For R.1 : Mr.T.M.Pappiah,
Special Govt. Pleader

For R.2 : Mr.P.V.Selvakumar,
Additional Govt. Pleader

O R D E R

The petitioner is stated to be a physically challenged person and is running a petty shop on the margin of M.T.H. Road, nearby the Loucuse Bus Stand, Paadi, Chennai - 50 and that the bunk shop run by him is not causing nuisance to anybody.

2. When things stand so, the respondents are

interfering with the running of the petitioner's business and hence the petitioner gave a representation on 15.09.2016 to grant license for running the bunk shop. Since it has not been considered, the petitioner has come before this court.

3. Heard Mr.T.M.Pappiah, learned Special Government Pleader appearing for the first respondent and Mr.P.V.Selvakumar, learned Additional Government Pleader appearing for the second respondent.

4. Though Mr.T.Meganathan, learned counsel appearing for the petitioner strenuously argued that the petitioner is a physically handicapped person and he has to look after his family, there is no right available to the petitioner to open a shop either in the platform or road margin. Secondly, the petitioner cannot open a bunk shop without any licence from the Corporation of Chennai. If any direction is granted to run the bunk shop, it would amount to legalizing the illegality committed by the petitioner.

5. Platforms are meant for pedestrians and roads are meant for vehicles. If the bunk shops are allowed to come up discriminately, that will go against the public interest. Physically challenged persons are not asking any other place other than important places like shopping malls, complex, etc. If the petitioner's contention is that he has been running the bunk shop for the past three years. There is no evidence produced before this court.

6. Mr.P.V.Selvakumar, learned counsel appearing for the second respondent would submit that a Textile Showroom by name New Saravana Stores has come up in that particular location about six months ago and thereafter only people are approaching this court in the guise of running the bunk shop for so many years. On instruction, the learned counsel would submit that there is no bunk shop as such and therefore direction cannot be given.

7. As rightly pointed out, there is no right available to the petitioner to maintain the writ of mandamus. If such a direction is given, it will go against the public interest and therefore, the writ petition fails. Since there is no right available to the petitioner, there cannot be direction to consider the representation of the petitioner.

8. In the result, the writ petition is dismissed. No

costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS V)

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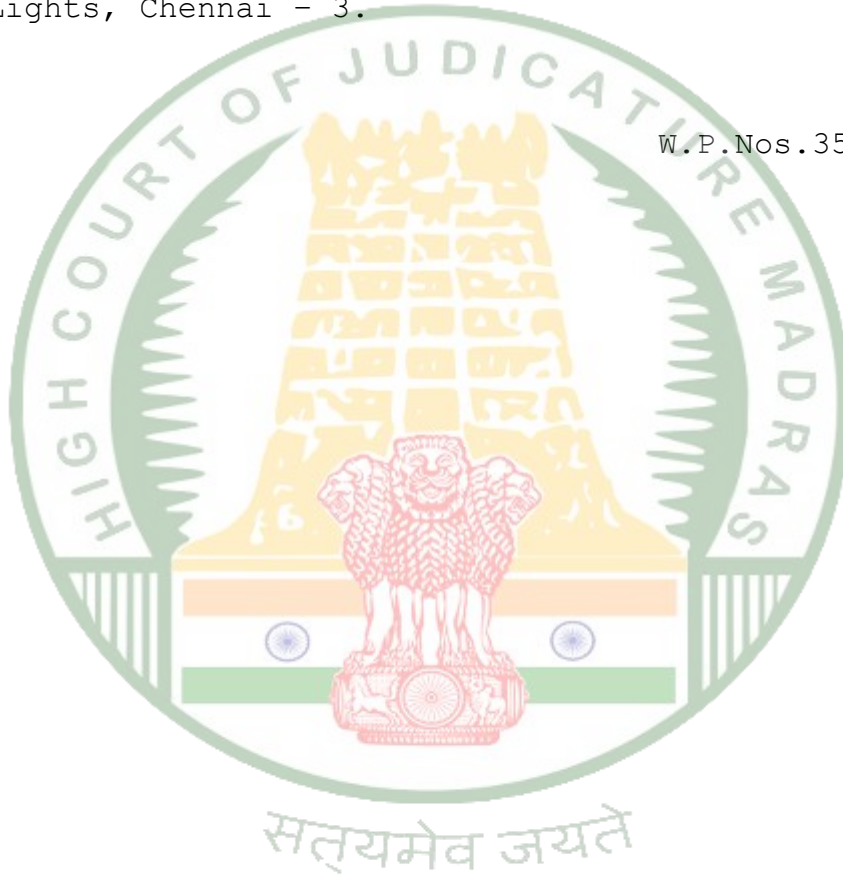
Sub Asst. Registrar

To

The State Commissioner for differently Able,
No.15/1, Model School Road,
Thousand Lights, Chennai - 3.

nmi (co)
krd 21/11

W.P.Nos.35631 of 2016



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