

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.36143/2016 & WMP.Nos.31092 & 31093/2016

M.Manjula

.. Petitioner

.Vs.

1. The Secretary to Government,
State of Tamil Nadu
Social Welfare Department,
Fort.St.,George, Chennai-600 009.

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

3. The District Collector,
Chennai District, Chennai.

4. The Divisional Revenue Officer/
Zonal Officer-XIII, Corporation of Chennai,
115, Dt.MUthulakshmi Salai, Adayar,
Chennai-600 020.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus or any other Writ order or direction in the nature of Writ to call for the records relating to the order of the 4th respondent dated Nil signed on 27.09.2016, an quash the same and directing the respondents to allot one Bunk Shop to the petitioner under disabled persons quota at Opposite to J.J.Kalyanamandapam, Kamarajar Salai, Raja Annamalaipuram,

Chennai-600 029 or any other place in the same locality.

For Petitioner	:	Mr.K.K.Senthilvelan
For RR 1 & 3	:	Mr.A.N.Thambi Durai, Spl.GP
For RR 2 & 4	:	Mr.P.V.Selvakumar
		Standing Counsel for Corporation

ORDER

Heard the learned counsel for the petitioner ; Mr.A.N.Thambi Durai, learned Special Government Pleader accepting notice on behalf of the respondents 1 and 3 and Mr.P.V.Selvakumar, learned Standing Counsel accepting notice on behalf of the respondents 2 and 4 and with the consent on either side, the writ petition is taken up for final disposal.

2 The case of the petitioner is that she is a differently abled person and was issued with a Passbook by the State Government stating the percentage of disability as 90%. The petitioner's father is running a small cycle repair shop opposite to J.J. Marriage Hall, Kamarajar Salai, Raja Annamalaipuram, Chennai-600 028, for the past ten years and that she has been assisting her father in the said shop and the livelihood of the family is based only upon the income derived from the said shop. The petitioner has submitted

several representations to the Government seeking allotment of a shop under the "Disabled Persons Quota" ; but the said representations did not fructify. It is the further case of the petitioner that similarly placed persons were allotted shops in the very same locality and citing the same, the petitioner has submitted a representation on 29.01.2016 and since no response was forthcoming, the petitioner filed WP.No.14482/2016 before this Court and the said writ petition was disposed of by this Court on 20.04.2016 directing the 2nd respondent therein to dispose of the petitioner's said representation on merits and in accordance with law. Pursuant to the said direction, the petitioner submitted a fresh representation on 13.06.2016 along with the earlier representation dated 29.01.2016 to the 4th respondent and the 4th respondent without considering the plight of the petitioner, has rejected her representation vide order dated 27.09.2016 and further directed the petitioner to remove the said shop as the same is situated on the footpath opposite to the said Marriage Hall, causing hindrance to the general public. Aggrieved against the said order, the petitioner is before this Court with this writ petition.

3 The learned counsel for the petitioner would submit

that the impugned order has been passed by the 4th respondent in total non-application of mind and that no opportunity of personal hearing of the petitioner was granted. It is his further submission that in the impugned order, the 4th respondent has directed the petitioner to vacate and remove the tea shop while the petitioner is running a cycle repair shop. The learned counsel for the petitioner would submit that the 4th respondent ought to have taken into consideration the physical disability of the petitioner before rejecting her request and that she should have been allotted an alternate place/shop.

4 The learned Standing Counsel appearing for the respondents 2 and 4 would submit that the petitioner has encroached the footpath and that the representation of the petitioner was hence, rightly rejected by the 4th respondent and prays for dismissal of the writ petition.

5 Be that as it may, from the photographs produced before this Court today, it is seen that there is a tea shop adjoining the cycle shop run by the petitioner and that the said shops are situate encroaching the footpath.

6 Though the petitioner has prayed for a larger relief, based on the request, he now restricts his claim to consider her representation and seeks time to vacate the shop. Accordingly, this Court grants one month time to the petitioner for vacating / removing the shop in question. The petitioner is also directed to file an affidavit of undertaking within a period of one week from today, before this Court to that effect, failing which, the authorities are entitled to vacate/remove the shop in question, in accordance with law. The authorities, viz., the 4th respondent is also directed to take into consideration the fact that the petitioner is a differently abled person and that her request for allotment for an alternate place shall be considered within the said period of one month.

7 The writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

14.10.2016

AP

B.RAJENDRAN, J.,

AP

To

1. The Secretary to Government,
State of Tamil Nadu
Social Welfare Department,
Fort.St.,George,
Chennai-600 009.
2. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.
3. The District Collector,
Chennai District,
Chennai.
4. The Divisional Revenue Officer/
Zonal Officer-XIII, Corporation of Chennai,
115, Dt.MUthulakshmi Salai, Adayar,
Chennai-600 020.

W.P.No.36143/2016

14.10.2016