

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S. SIVAGNANAM

W.P.No.5801 of 2016

Mr.T.Sadasivam

.. Petitioner

Vs

1. The Commissioner,
Corporation of Coimbatore,
Coimbatore.
2. The Assistant Commissioner,
Central Zone,
Corporation of Coimbatore,
Coimbatore.

.. Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the entire records in connection with the impugned notification of the 2nd respondent made in the newspaper "Daily Thanthi" dated 14.2.2016 in so far as it relates to Sl.No.30, Shop No.4 of the Gandhi Nagar City Bus Stand, Coimbatore and quash the same and consequently direct the respondents to allot Shop No.4 in favour of the petitioner.

For Petitioner : Mr. M.Sriram

For Respondents : Mr. J. Sathyanarayana Prasad

सत्यमेव जयते
ORDER

With the consent of both parties, this Writ Petition is taken up for final disposal.

2. This Writ Petition has been filed by a visually challenged person challenging the notification issued by the Corporation of Coimbatore dated 14.2.2016, bringing for auction the shops owned by the Corporation in Gandhipuram City Bus Stand, Coimbatore.

3. In this Writ Petition, the petitioner has challenged the impugned notification only in so far as the said relates to Serial No.30, regarding Shop No.4 of the Gandhi Nagar City Bus

Stand. The petitioner's case is that during 2005, an allotment was made to him granting the said shop on lease. However possession was not granted to the petitioner and therefore, the petitioner filed a Writ Petition before this Court in W.P.No.28045 of 2011 and in the said Writ Petition, initially, an interim order was granted directing the respondent Corporation to keep shop No.4 vacant. Subsequently, the petitioner withdrew the Writ Petition on 10.6.2015. The petitioner would state the reason for withdrawing the said Writ Petition was that if the petitioner shall do so, he will be granted allotment to the shop. As this having not been done and the impugned notification having been issued bringing the shop for auction, the petitioner has filed the present Writ Petition.

4. At the time when the Writ Petition was entertained, the Court permitted the respondent Corporation to proceed with the auction, but stopped confirmation of auction. It appears that the petitioner did not participate in the auction. Though this Court granted an interim order that the petitioner should not be disturbed from the shop until further orders, it is a fact that the possession was not handed over to the petitioner. Thus the case of the petitioner itself rests upon the allotment made in the year 2005. It is not known as to how the respondent Corporation could have made an allotment without calling for tenders or offers from other physically challenged persons.

5. Be that as it may, even if such allotment was made in favour of the petitioner, the said right will not accrue to the petitioner beyond a period of three years from 2005. Thus the allotment said to have been made in the year 2005 is of little avail and moreso, when possession has not been handed over to him.

6. Further, this court would like to point out that there are several physically challenged persons who are unable to eek out a descent livelihood and they are approaching various authorities to permit them to put up bunk shops on road margins, set up mobile canteen etc. The respondent Corporation having taken a decision to earmark a specified number of shops for the physically challenged persons, cannot allot the same as per their whims and fancies. Even in respect of those shops reserved for any particular category, such as physically challenged, the same shall be allotted after following a transparent procedure by calling for tenders or by auction, restricting the eligibility to participate based on the category of reservation. In other words, if the shops are reserved for physically challenged persons, then the persons who are entitled to participate in the tender or auction shall be only those who are physically challenged. If only this procedure is followed, it would satisfy the Article 14 of the

Constitution of India.

7. In the light of the above, the challenge to the impugned notification at the instance of the petitioner on the grounds raised has to be necessarily fail. Accordingly, the Writ Petition is dismissed.

8. It is submitted by the petitioner that with fond hope that the petitioner would be allotted shop, he did not participate in the auction. Furthermore, on account of financial difficulty, he could not immediately come with good money. Therefore, there will be a direction to the respondent Corporation to bring for re-auction the shop No.4 in the Gandhipuram City Bus Stand Complex, Coimbatore and permit the petitioner also to participate in the auction/tender.

9. With the above observation, this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

msr

To

1. The Commissioner,
Corporation of Coimbatore,
Coimbatore.

2. The Assistant Commissioner,
Central Zone,
Corporation of Coimbatore,
Coimbatore.

+1 cc to Mr.J.Sathya Narayana Prasad Advocate sr.17202

+1 cc to Mr.M.Sriram Advocate sr.17201

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