

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2017

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN
And
THE HON'BLE MR.JUSTICE N.SESHASAYEE

W.A.No.1022 of 2017
CMP.No.14412 of 2017

M.Raja .. Appellant/Petitioner

vs.

1.The Director of Medical Services &
Rural Welfare,
Chennai-600 006.

2.The Joint Director of Health Services,
Namakkal Taluk & District.

3.The Superintendent,
Govt. District Headquarters Hospital,
Namakkal Taluk & District .. Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 06.07.2017 made in W.P.No.17086 of 2017.

WP Prayer:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Respondents particularly the 1st Respondent to issue permit to continue the bunk shop situated in Government District Headquarters Hospital Namakkal on the basis of Petitioners representation dated 30.06.2017 and consequently re connect the Water Supply to the above bunk shop

For Appellants : Mr.R.Thanjan
For Respondents : Mr.A.N.Thambidurai
Special Govt. Pleader

J U D G M E N T

(Judgment of the Court was made by M.SATHYANARAYANAN, J.)

The endeavour made by the petitioner to get the renewal of licence to run the Aavin Parlour in the campus of the

Namakkal District Government Headquarters Hospital at Namakkal became unsuccessful and hence, he is before this Court.

2. A perusal of the materials placed before this Court would disclose among other things that the petitioner was granted licence on 02.05.2006 by the office of the first respondent to run an Aavin Parlour by putting up a bunk shop and the licence also specifically indicated that apart from Aavin products, he should not sell any other product. The licence granted to the appellant/writ petitioner expired on 09.12.2007 and vide proceedings of the first respondent dated 18.06.2008, the licence granted to the appellant/writ petitioner was cancelled. The appellant also filed a Suit in O.S.No.374 of 2008 on the file of the Additional District Munsif Court, Namakkal praying for a permanent injunction restraining the respondents from interfering in running the bunk shop and it was also dismissed, vide judgment and decree datd 24.07.2013.

3. The petitioner, on an earlier occasion, has filed W.P.No.16346 of 2015 praying for a Writ of Mandamus forbearing the respondents from initiating steps to evict from the said bunk shop and this Court, vide order dated 10.06.2015, has directed the second respondent to consider the representation submitted by the petitioner in this regard dated 20.04.2015, after providing an opportunity of personal hearing and pass orders on the same within a stipulated time. Accordingly, the second respondent, in compliance of the order passed by this Court, has passed the impugned order dated 30.05.2017 and the perusal of the same would indicate that the appellant/writ petitioner inspite of opportunity given to get appropriate permission from the first respondent, he has failed to do so. The said order would also indicate that though the petitioner was granted permission to run Aavin Parlor in the bunk shop, was running the shop for selling other products also and therefore, called upon the petitioner to deliver vacant possession of the shop within a stipulated time.

4. The petitioner, made a challenge to the said order of the second respondent by filing W.P.No.17086 of 2017, praying for a Writ of Mandamus directing the respondents to issue licence to continue to run the bunk shop and a learned Single Judge of this Court, has taken note of the fact that the petitioner's request was already considered and rejected by the respondents and therefore, dismissed the writ petition, vide order dated 06.07.2017. The first respondent, vide order dated 11.08.2017, has recorded the fact that the licence granted to the appellant/writ petitioner got expired on 09.12.2017 and it was cancelled vide order dated 18.06.2008 and the request made by the petitioner to continue to run the bunk shop in terms of the earlier order passed by this Court

was already considered and rejected by the respondents, the further representation submitted by the petitioner cannot be considered.

5. Mr.R.Thanjan, learned counsel appearing for the appellant has drawn the attention of this Court to the typed of documents and would submit that the appellant/writ petitioner is a physically challenged / differently abled person and he and his family are solely defendant on the income derived from running the bunk shop and therefore, prays for appropriate orders directing the respondents so as to enable the appellant/writ petitioner to continue to run the bunk shop in question.

6. This Court has considered the submission made by the learned counsel appearing for the appellant/writ petitioner and also perused the entire materials placed before it.

7. This Court, on an earlier occasion, has directed the respondents herein to consider the representation of the petitioner dated 20.04.2015, seeking permission to run the bunk shop, vide order dated 10.06.2015 made in W.P.No.16346 of 2015 and in compliance of the same, the second respondent has considered the same and rejected the petitioner's request, vide order dated 30.05.2017 and admittedly, the petitioner did not challenge the said order dated 30.05.2017 and instead, he filed another Writ Petition in W.P.No.17086/2017, praying for a Writ of Mandamus directing the respondent to consider his representation dated 30.06.2017, praying for a similar relief and it was dismissed, vide order dated 06.07.2017. The first respondent once again taken into consideration the representation submitted by the petitioner and rejected the same, vide communication dated 11.08.2017.

8. A perusal of the photographs annexed to the typed set of documents would disclose that the petitioner is also selling other food articles, short eats etc., which prima facie appears to be in violation of even the original licence granted to the petitioner. The primordial submission made by the learned counsel appearing for the appellant/writ petitioner is that since the petitioner is a physically challenged/differently abled person and his family is solely dependent on the income derived out of the bunk shop, his request for renewal of licence may be sympathetically considered. In the considered opinion of the Court, this Writ Appeal is liable to be rejected for the reason that admittedly, the appellant/writ petitioner was granted only a licence and it also got expired long back and the petitioner has no vested right to get renewal of licence.

9. In the light of the reason assigned above, this Writ Appeal deserves dismissal and accordingly it is dismissed, confirming the order dated 06.07.2017 made in W.P.No.17086 of 2017. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

jvm

To

1.The Director of Medical Services & Rural Welfare,
Chennai-600 006.

2.The Joint Director of Health Services,
Namakkal Taluk & District.

3.The Superintendent,
Govt. District Headquarters Hospital,
Namakkal Taluk & District.

+lcc to Government Pleader sr.66246

W.A.No.1022 of of 2017

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ss(27/9/2017)

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