

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2017

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN

And

THE HON'BLE MR.JUSTICE N.SESHASAYEE

Cont.P.No.143 of 2017

Jeyamuthu

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Petitioner

vs.

Mr.Venkatesan
Assistant Executive Engineer,
Zone-7, Ward-27, Door No.3/2,
Dr.Besant Road,
Triplicane, Chennai-600 005.

Respondent/Contemnor

Prayer: Contempt Petition filed under Section 11 of the Contempt of Court Act, 1971 to punish the respondent for wilful disobedience of the order dated 16.02.2016 made in W.P.No.4291 of 2016.

For Petitioner : Mr.M.A.Balasubramanian
For Respondent : Mr.V.C.Selvasekaran

ORDER

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

The petitioner, on an earlier occasion, has submitted a representation to the Chairman, Hawking Zone Implementation Committee, Chennai-600 028, seeking allotment of bunk shop near Kasthuribai General Hospital, Triplicane, Chennai and

vide communication dated 14.10.2015, the Chairman, Hawking Zone Implementation Committee, advised the petitioner to get necessary licence from all the authorities concerned before commencement of the shop and also called upon the concerned official to sent a report within a period of two weeks. Later on, the petitioner filed W.P.4291 of 2016, praying for issuance of a Writ of Mandamus directing the respondents to consider the above said letter dated 14.10.2015 along with the petitioner's representations made on various dates ending with 11.11.2015 for grant of appropriate authorization to continue and run the Bunk Shop Kiosk at the vacant space in Bharathi Salai, adjacent to Victoria Student's Hostel, opposite to Kasthuribai General Hospital, Triplicane, Chennai and this Court, vide order dated 16.02.2016, was not inclined to pass any order at that stage except directing the Zonal Officer 9, Corporation of Chennai to submit a report to the Chairman, Hawking Zone Implementation Committee and to take appropriate decision and this Court, in the said order, has also taken note of the decision in ***B.Noor Mohammed v. State of Tamil Nadu, Rep. by Secretary [(2015) 7 MLJ 860]***. The petitioner, alleging violation of the said order, has filed this Contempt Petition.

2. The learned counsel appearing for the petitioner would submit that though the petitioner was running the bunk shop in question for very many years, under the pretext of putting up hoarding on the birth anniversary of the Hon'ble The Chief

Minister, the Assistant Executive Engineer, Corporation of Chennai, has evicted the petitioner's bunk shop with an assurance that the bunk shop will be restored to place within 3 or 4 days and despite the said assurance, it has not been restored and it is a clear case of contempt and therefore, prays for appropriate orders.

3. Mr.V.C.Selvaraj, learned counsel appearing for the respondent/contemnor has drawn the attention of this Court to the compliance report filed by the respondent dated 24.07.2017 and would submit that taking advantage of the above cited order, someone has put up a bunk shop overnight in the junction of Victoria Students' hostel road and on regular inspection, the respondent has removed the said bunk shop from the said place since the Victoria Hostel Road is a narrow road and it is the approach road to Kasthuribai Gandhi Women and Children Hospital and the respondent also took a stand that very many bunk shops were put up overnight after obtaining orders from this Court.

4. This Court has considered the rival submissions and also perused the entire materials placed before it.

5. A perusal of the proceedings of the Chairman, Hawking Zone Implementation Committee dated 14.10.2015 would disclose that the petitioner was

advised to get necessary licence from all the authorities concerned before commencement of the shop and admittedly, the petitioner did not obtain any licence from the authorities concerned. The petitioner has filed W.P.No.4291 of 2016 praying for consideration of the above said letter dated 14.10.2015 of the Chairman, Hawking Zone Implementation Committee as well as his representations made on various dates ending with 11.11.2015 and this Court, without going into the merits of the claim projected by the petitioner and also in the light of the decision in ***B.Noor Mohammed v. State of Tamil Nadu, Rep. by Secretary [(2015) 7 MLJ 860]***, has directed the respondent to take necessary action in accordance with law.

6. It is to be pointed out at this juncture that no interim order was granted in favour of the petitioner restraining the respondents/Corporation officials from removing the bunk shop.

7. A perusal of paragraph No.11 of the affidavit would read that the petitioner is alleging contempt on account of the fact that the bunk shop has been removed from its place and also the protection available under Sections 3, 4 and 38 of Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. In the absence of any interim order restraining the Corporation officials from evicting the bunk shop of the petitioner and the petitioner, as directed by the Chairman of the

Hawking Zone Implementation Committee, Chennai-28, did not obtain any licence from the authorities, this Court is of the considered view that the respondents did not violate the orders passed by this Court and as and when representation is submitted by the petitioner, the concerned authorities shall consider and dispose of the same in accordance with law as expeditiously as possible and communicate the decision taken, to the petitioner.

7. This Contempt Petition is closed, subject to the above observations.

[M.S.N., J.] [N.S.S., J.]
24.07.2017

Index : Yes / No
Internet : Yes / No
jvm

To
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M.SATHYANARAYANAN, J.,
and

N.SESHASAYEE, J.

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