

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2017

CORAM

THE HONOURABLE MR.JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.No.31728 of 2017

M.Manikandan Petitioner

Vs.

- 1.The State Commissioner for
Differently Abled,
O/o. State Commissioner for Differently Abled,
J.N.Ring Road,
Chennai - 600 078
2. The Secretary to Government,
Local Administration Department,
Government of Tamil Nadu,
Chennai - 600 003.
3. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003 Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, forbearing the 3rd respondent, their officials, servants from in any manner interfering with the running of the petitioner's bunk shop near Commercial Tax Building, Moors Road, Opposite to Indira Clinic, Chennai 600 006 by selling tea, coffee and other food items, till the Township Vending Committee decides as per the provisions of the Street Vendors (Protection of livelihood Regulation) Act.

For Petitioner :	Mr.R.Raja
For R1 and R2 :	Mr.M.E.Rani Selvam, Additional Government Pleader
For R3 :	Mr.A.Nagarajan, Standing Counsel

O R D E R

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

By consent, the writ petition is taken up for final disposal. Ms.M.E.Rani Selvam, learned Additional Government Pleader accepts notice on behalf of the respondent 1 and 2 and Mr.A.Nagarajan, learned standing counsel.

2 The petitioner claims that he is physically handicapped (Differently abled), having the permanent physical disability of 60% and in order to eke out his livelihood, he has put up a bunk shop near commercial Tax Building, Moors Road, Opposite to Indira clinic, Chennai 600 006 and running there for the past six months wherein he is selling tea, coffee and baked food items prepared in an hygienic manner and strictly in compliance of food and safety norms and out of the meager income earning, he is maintaining his family.

3 The learned counsel appearing for the petitioner would submit that the petitioner is entitled to the benevolent provisions of Section 43 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 as well as the Tamil Nadu Street Vendors (Protection of Livelihood and Regulations of Street Vending), Act 2014 and rules and regulations framed there under and in this regard, he has submitted a representation dated 15.06.2017 to the 3rd respondent and though, it was received and acknowledged, he is yet to be favoured with any kind of response and pending consideration of the same, apprehending dispossession without recourse to law, the petitioner was constrained to approach this Court by filing this writ petition.

4 This Court heard the submissions of Mrs.M.E.Rani Selvam, learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.A. Nagarajan, learned Standing Counsel appearing for 3rd respondent and also perused the materials placed before it.

5 The learned standing counsel appearing for Corporation of Chennai has invited the attention of this Court to Paragraph No.2 of the affidavit and would submit that the petitioner has admitted the fact that his bunk shop is of a recent origin and as such, he cannot be entitled to get the protection of Tamil Nadu Street Vendors (Protection of Livelihood and Regulations of Street Vending), Act 2014.

6 This Court has carefully considered the rival submission and also perused the materials placed before it.

7 Though the petitioner has prayed for a larger relief, this Court, in the light of the facts and circumstances of this case and without going into the merits of the same and taking into consideration of the fairness executed by the petitioner that he has put the bunk shop very recently, this Court permits the petitioner to submit one more representation to the Zonal Officer, Zone 5, Corporation of Chennai, enclosing relevant and authenticated documents along with the copy of this order within a period of two weeks and upon receipt of the same, the Zonal Officer, Zone 5, Corporation of Chennai, is directed to consider the said representation in the light of the Tamil Nadu Street Vendors Act and pass appropriate orders within a further period of eight weeks thereafter and till such time, shall defer further decisions to remove the bunk-shop of the petitioner and it is also made clear that till the disposal of the representation by the Zonal Officer of Corporation of Chennai, the petitioner shall not further encroach, and shall not alter the physical features of the bunk shop in question and shall keep the surrounding places in a neat and hygienic manner and also fully comply with the food safety norms.

6 The writ petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The State Commissioner for
Differently Abled,
O/o. State Commissioner for Differently Abled,
J.N. Ring Road,
Chennai - 600 078
2. The Secretary to Government,
Local Administration Department,
Government of Tamil Nadu,
Chennai - 600 003.

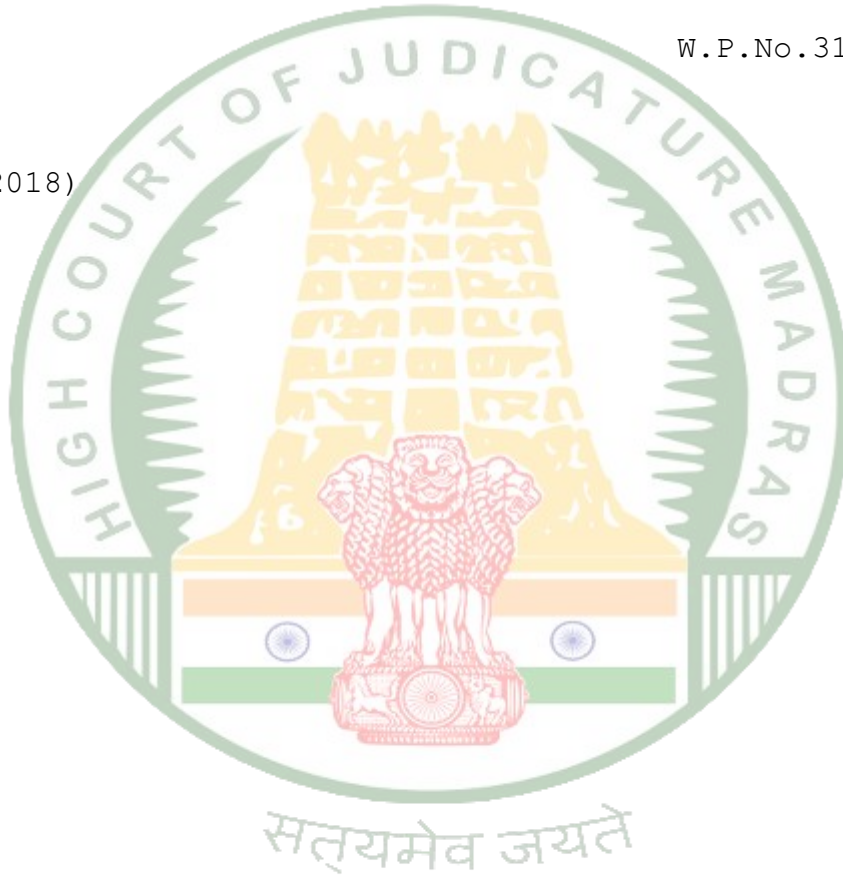
3. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003

4. The Zonal officer,
Zone 5, Corporation of Chennai,
Rippan Bilding, chennai 3.

+lcc to Mr.R.RAJA Advocate, S.R.No. 86733
+lcc to the Government Pleader, S.R.No. 87669

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SV(CO)
TR(10/01/2018)



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