

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.27234 of 2017

K.Manikandan

... Petitioner

Vs.

1. The District Collector,
Singaravelan Malligai,
Chennai.
2. The Commissioner,
State Disability Commission,
No.5, Lady Wellington Campus,
Kamarajar Salai,
Chennai 600 005.
3. The Commissioner,
Chennai Corporation,
Ripon Building,
Poonamallee Highways,
Chennai 600 003.
4. Highways Department,
Government of Tamil Nadu,
rep. by Assistant Engineer (H),
City Roads Section,
Highways Department,
Chennai 600 015.
5. The Chief Executive Officer,
St. Thomas Mount-cum-Pallavaram Cantonment,
Chennai 600 016.

... Respondents

(Respondents 4 & 5 suo motu impleaded by this Court vide order dated 26.10.2017)

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, directing the respondents to take necessary action pursuant to the petitioner's representation dated 25.09.2017.

For Petitioner : Mr.R.Thirumoorthy

For Respondents 1,2 & 4: Mr.O.Selvam,
Government Advocate

For 3rd Respondent : Mr.T.C.Gopalakrishnan

For 5th Respondent : Mr.C.Mohan,
for M/s.King & Patridge

O R D E R

The petitioner, who is a physically challenged person with 90% disability in his legs, has come up with this Writ Petition seeking a direction to the respondents to take necessary action on his representation dated 25.09.2017.

2. According to the petitioner, he is eking out his livelihood by running a small Petty shop in front of Alandur Court campus for several years without causing any disturbance to the public, apart from doing Cobbler work. The petitioner made a representation to the respondents on 25.09.2017 through R.P.A.D. requesting them to allow him carry on his business in the petty shop before Alandur Court Campus. However, he was forced to vacate the shop immediately. Hence, the petitioner is before this Court.

3. When the matter is taken up for hearing, Mr.T.C.Gopalakrishnan, learned counsel appearing for the 3rd respondent/Corporation submitted that the place in which the petitioner is carrying on business does not belong to the 3rd respondent/Corporation and that it is coming under the purview of the Cantonment Board and the petitioner has to make necessary representation to the Chief Executive Officer of the Cantonment Board concerned, as regards his relief.

4. As the petitioner is a physically challenged person with 90% physical disability, this Court without rejecting the Writ Petition on technical grounds, directed the counsel for the petitioner to serve notice on Mr.C.Mohan, learned counsel appearing for the Cantonment Board. Accordingly, the Chief Executive Officer, St. Thomas Mount-cum-Pallavaram Cantonment as also the Highways Department, represented by the Assistant Engineer are impleaded as respondents 5 and 4 in this Writ Petition.

5. Mr.C.Mohan, learned counsel appearing for the 5th respondent/Cantonment Board submitted that a connected matter in W.P.No.37743 of 2016 is pending before this Court and that the Assistant Divisional Engineer, Highways, (Construction and Maintenance) has filed counter, stating that the entire area between Kathipara junction and Alandur belongs to Highways Department.

6. Even assuming that the petitioner's Petty shop is situated on the State Highways, still the petitioner will have to seek permission from the Cantonment Board concerned for the purpose of trade license, as the entire stretch abutting the area in question is within the purview of the Cantonment Board.

7. In view of the submissions of the learned counsel for the parties, this Court permits the petitioner to make a fresh representation to all the respondents herein within a period of one month from the date of receipt of a copy of this order and if such representation is made, a decision shall be taken by the 4th respondent herein after hearing the petitioner and others, who are likely to be affected, within a period of two months thereafter. It is made clear that the petitioner's request shall not be rejected on the ground of pendency of W.P.No.37743 of 2016.

The Writ Petition is disposed of with the above direction and observation. No costs.

s/d-

Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

(aeb)

To:

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3. The Commissioner,
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4. Assistant Engineer (H),
Highways Department,
Government of Tamil Nadu,
City Roads Section,
Highways Department,
Chennai 600 015.

5. The Chief Executive Officer,
St. Thomas Mount-cum-Pallavaram Cantonment,
Chennai 600 016.

+1 Cc to Govt. Pleader sr 76949.

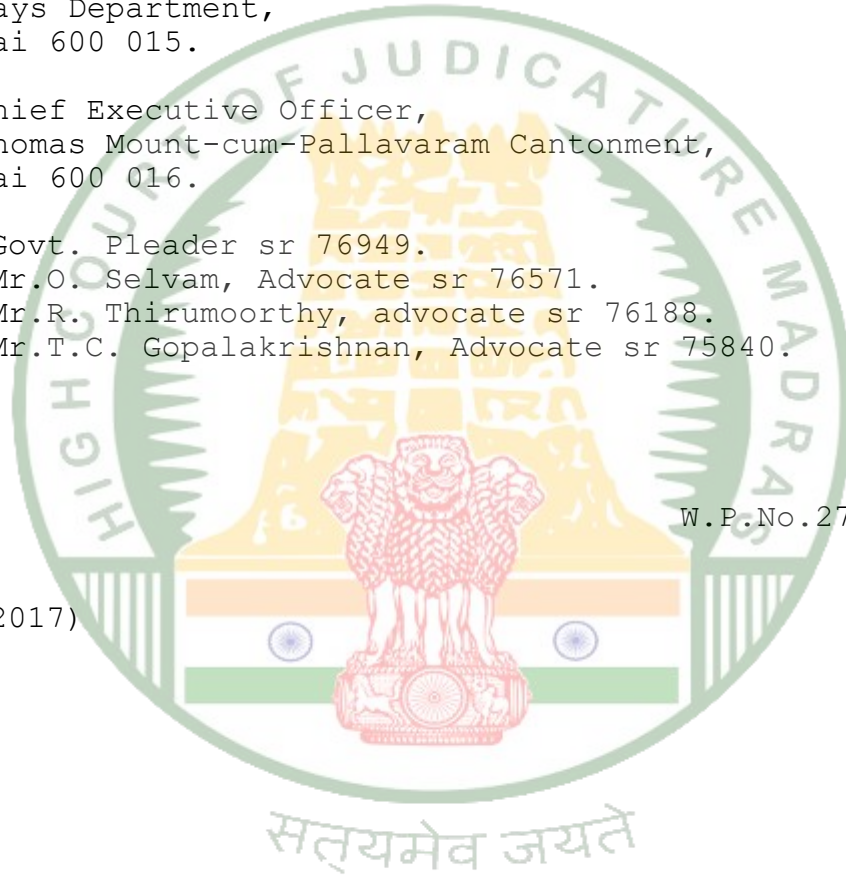
+1 Cc to Mr.O.Selvam, Advocate sr 76571.

+1 Cc to Mr.R. Thirumoorthy, advocate sr 76188.

+1 Cc to Mr.T.C. Gopalakrishnan, Advocate sr 75840.

W.P.No.27234 of 2017

KK(CO)
SP(09/11/2017)



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