

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2018

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.21792 of 2012
and M.P.No.1 of 2012

V.S.Banumathi

..Petitioner

Versus

1. The Health Officer,
Corporation of Chennai (Zone-9)
No.1, Lake Area Tennis Stadium,
4th Cross Street,
Nungambakkam, Chennai - 600 034.
 2. The Assistant Commissioner,
Corporation of Chennai (Zone-9)
No.1, Lake Area Tennis Stadium, 4th cross street,
Nungambakkam, Chennai - 600 034.
 3. The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai 600 003.
- ...Respondents

(Respondents 2 and 3 are impleaded as per order dated 13.12.2012 by VDPJ in M.P.No.2 of 2012 in W.P.No.21792 of 2012)

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue of a Writ of Mandamus, directing the respondent to verify the compliance of various instructions issued in the notice dated 02.06.2012 and forbearing from preventing the petitioner from running the chicken stall at No.28/1, Sudandira Nagar, 1st Street, Llyods Road, Chennai - 5, pursuant to the licence issued to the petitioner under Section 309 of The Chennai City Municipal Corporation Act.

For Petitioner :: Mr.P.Mani

For Respondents :: Mr.R.Arunmozhi,
For R1 to R3

O R D E R

The writ petitioner Mrs.V.S.Banumathi, had originally filed the writ against the Health Officer, Corporation of

Chennai (Zone-9), Nungambakkam. During the pendency of the writ petition the Assistant Commissioner, Corporation of Chennai (Zone-9), Nungambakkam and the Commissioner, Corporation of Chennai had been impleaded as 2nd and 3rd respondents.

2. The petitioner claimed that she is running a chicken stall at No.28/1, Sudandira Nagar, 1st Street, Llyods Road, Chennai-5. She had obtained necessary licence from the respondents Corporation as stipulated under Section 309 of the Chennai City Municipal Corporation Act. She had also renewed the licence and on the date of filing the writ petition, the license was in force.

3. On 01.06.2012, the 1st respondent namely the Health Officer, Corporation of Chennai (Zone-9), Nungambakkam, inspected the said chicken stall and issued a notice dated 02.06.2012. In the notice, the 1st respondent had directed that the petitioner should carry out the following acts:

- i. Not to keep live chicken inside the stall.
- ii. Tiles to be fixed on the inner walls and floor for easy cleaning.
- iii. Proper metro water connection should be obtained and drainage system should be followed.
- iv. Chicken boxes and unnecessary things should be removed immediately.
- v. The front door of the stall should be covered with net preventing the flies from entering the shop.
- vi. The chicken remains should be stored in plastic container and handed over to the garbage vehicle.
- vii. The person cutting the chicken should wear "Apron" and get necessary medical certificate.
- viii. No disturbance should be caused to the public and traffic.

4. The petitioner stated that, she had complied with all the instructions. She had also informed the 1st respondent regarding the same. However, it is the grievance of the petitioner that even though she had complied with all the requirements, the 1st respondent namely the Health

Officer, once again inspected the chicken stall to verify whether the petitioner had actually complied with the requirements. Apprehending that the 1st respondent would continuously conduct the inspections without notice and at irregular intervals, the petitioner had been forced to file the present writ petition, seeking a Mandamus to the 1st respondent namely the Health Officer, to verify the compliance of the various instructions issued in the notice dated 02.06.2012.

5. The 1st respondent had filed a counter affidavit and in the said counter affidavit, she had stated that complaints were received from general public and also from the Tamil Nadu Pollution Control Board. But, however copies of such complaints or report of the Tamilnadu Pollution Control Board, had not been enclosed. The 1st respondent had made an inspection on 02.06.2012, exercising the power under Section 309 of the Chennai City Municipal Corporation Act. As pointed out above she had directed the petitioner to comply with the requirements. Pending the writ petition, the writ petitioner had filed an undertaking affidavit, wherein she had stated as follows:

"... I state that I will run my chicken stall at No.28/1, Sudandira Nagar, 1st street, Llyods Road, Chennai-5 in a hygienic condition. I state that I will not cut and keep the chicken on the street and I will not cause any disturbance to the general public using the street. I undertake to dispose of the remains by collecting the same in a bag and giving it to the same to the Corporation Garbage Vehicle and I will not place the remains in the general Garbage Bin.

I state that I will not cause any nuisance to the general public or disturbance to the traffic. I state that I will take all the precautions to avoid the conditions which would cause any disease to the public. I state that I will obey the directions that may be issued by the respondents from time to time."

6. Even though, the undertaking affidavit is not attested in the manner known to law, since it has been signed by the petitioner and contains an undertaking to comply with the directions stipulated by the 1st respondent, the undertaking affidavit is taken note of by this Court. Recording the same, nothing survives in the writ petition, the writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

7. The petitioner is directed to continue to comply with the stipulations and undertaking given by her. The 1st respondent also has power to inspect, but it would be in the fitness of things that the 1st respondent issues notice and inspect the premises.

Sd/-

Assistant Registrar(CS ix)

//True Copy//

Sub Assistant Registrar

vkx/msvm

To

1. The Health Officer,
Corporation of Chennai (Zone-9)
No.1, Lake Area Tennis Stadium
4th Cross Street, Nungambakkam
Chennai - 600 034.
2. The Assistant Commissioner
Corporation of Chennai (Zone-9)
No.1, Lake Area Tennis Stadium 4th cross street
Nungambakkam, Chennai - 600 034.
3. The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai 600 003.

+1cc to Mr.R.Arunmozhi, Advocate SR.No. 78386

W.P.No.21792 of 2012

ASK(14/12/2018)

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