IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.03.2018
CORAM
THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.4960 of 2018
and
W.M.P.No.6112 of 2018

Natesan Theru Sirukadai Thattu
Vyabarikal Nala Sangam,
Rep. By its Secretary,
Reg.No.489/2017,
No.37, Siva Vishnu Complex,
Natesan Street,
T.Nagar, Chennai - 600 017. .. Petitioner

Versus

1.The Secretary to Government,
Commissionerate of Municipal Administration,
Government of Tamil Nadu,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The District Collector,
Chennai, Rajaji Salai,
Chennai District.

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

4.Commissioner of Police,
Vepery,
Chennai - 600 007.

5.Inspector of Police (Law & Order),
R1, Mambalam Police Station,
No.1, Madley Road,
T.Nagar, Chennai - 600 017. .. Respondents

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Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, forbearing the respondents 2 to 5 from interfering with the members of the petitioner's Sangam (as per the members list filed in the typed set) from carrying on the vending activities on the Usman Road and Natesan Street, T.Nagar, Chennai - 17, without following procedure established under the "Street

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Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014 and Rules framed there under.

For Petitioner : Mr.S.T.Varadarajulu

For Respondents : Mr.V.Shanmuga Sundar
Special Government Pleader,
for R1, R2, R4 & R5
Mr.T.C.Gopalakrishnan
Standing counsel for R3

O R D E R

This writ petition has been filed seeking for issuance of writ of mandamus, forbearing the respondents 2 to 5 from interfering with the members of the petitioner-Sangam from carrying on the vending activities on the Usman Road and Natesan Street, T.Nagar, Chennai -17, without following the procedures established under the "Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

2. Heard Mr.S.T.Varadarajulu, learned counsel for the petitioner, Mr.V.Shanmuga Sundar, learned Special Government Pleader appearing for the respondents 1, 2, 4 and 5 and Mr.T.C.Gopalakrishnan, learned Standing counsel appearing for the third respondent.

3. The learned counsel for the petitioner submitted that the members of the petitioner-Sangam are engaged in vending activities by selling fruits, vegetables, garments, chappals etc., for the past 30 years. The total extent of utility area is only 10 to 12 sq.ft. It is further submitted that the Street Vendors Protection Act was promulgated for the benefit of the street vendors and as per Section 3 (i), Vending Committee should be formed and as per Section 6, the vendors should be identified and they should be issued with identity cards and as per Section 22 of the Act, the members of the street vendors Union/Association shall be included in the Vending Committee.

4. According to the learned counsel for the petitioner, so far, the respondents have not formed the Vending Committee. Even if it is assumed that the Vending Committee has been formed, when the respondents did not follow the procedures mandated under the said Act, the members of the petitioner-Sangam are entitled for protection. It is further submitted that in the year 2015, a Division Bench of this Court in batch of writ petitions in W.P.No.18397 of 2014 etc., issued a direction to the respondents to follow the provisions of the said Act.

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5. The fourth respondent has filed a detailed counter affidavit denying allegations of the petitioner and it is contended that, pursuant to the direction in W.P.No.4566 of 2014, dated 14.7.2016, the shops in Usman Road and Natesan Salai in T.Nagar have been evicted and the petitioner- Sangam has now approached the Vending Committee for redressal of their grievances and for implementation of the Street Vendors Act.

6.Learned Special Government Pleader urged that the members of the petitioner had been evicted in order to implement the order of the First Bench of this Court dated 14.7.2016 and therefore the petitioner cannot rely on the earlier order. It is further contended that admittedly no challenge was made to the order of the First Bench and the present writ petition filed by the association suppressing the material facts is liable to be dismissed with exemplary cost.

7.The learned Standing Counsel appearing for the third respondent submitted that the petitioner-Sangam has not come with clean hands and it is guilty of suppression of material facts. In the affidavit, it is stated that 272 members were enrolled in the petitioner Union, but, the information provided by the Registrar of Society, Chennai, dated 12.3.2018, shows that the petitioner Sangam has only 19 members.

8. In the writ petition W.P.No.4566 of 2014 filed by the T.Nagar Residents Welfare Association, for removal of encroachment made by Hawkers on Usman Road and other streets in T.Nagar, Chennai, the First Bench held that hawking cannot be on the public streets and the streets must be kept free of any encroachment by hawkers, so that traffic movement is smooth. The order has reached finality as no appeal was preferred against the order.

9. Perusal of the records reveal that there is no reference about above order either in the affidavit or in the typed set. When the petitioner seeks relief on the basis of the order dated 30.9.2015 passed in W.P.No.18397 of 2014 batch, it can not pretext saying no knowledge about the order of the First Bench dated 14.7.2016. As rightly contended by the learned counsel for the respondents that the petitioner has not approached the Court with clean hands.

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10. It is settled law that the party who approaches the High Court by invoking Article 226 of the Constitution of India shall come to the Court with clean hand. It there is any false statement or suppression of facts, on that ground the writ petition is liable to be dismissed.

11. For the above stated reasons, this Court does not find merit in this writ petition. The writ petition fails and same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Commissionerate of Municipal Administration,
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Ezhilagam, Chepauk,
Chennai - 600 005.

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Rajaji Salai,
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3.The Commissioner,
Greater Chennai Corporation,
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+1 cc to Govt pleader sr 23965
+1 cc to M/s.S.T.Varadarajalu Advocate sr 23006
+1 cc to Mr.T.C.Gopalakrishnan advocate sr 22942

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