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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:04..10..2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.21035 of 2018

S.Samundeeswari

... Petitioner

-Versus-

- 1.The Special Commissioner,
For Handicapped,
Office of the State Commissioner of Disabled,
No.15/1, Model School Road,
Thousand Lights, Chennai 600006.
- 2.The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai 600003.
- 3.The Commissioner of Police,
E.V.R.High Road, Chennai 600007.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 2nd respondent to dispose of the representation of the petitioner dated 30.01.2018 including vending committee constituted by the 2nd respondent for grant of license to continue to run the petty shop and till such time, forbear the 2nd respondent from in any manner interfering with the running of the petitioner bunk shop and selling tea, coffee allied fast food items at MC. Nicolous Road, by the side of Rain Tree Palance, Corner of MC. Nicolous 4th Lane, Opp. Dell Service Centre, Chetpet, Chennai 600031.

For Petitioner	: Mr.N.A.Sadique
For Respondents	: Mr.E.Neelakandan, Government Advocate for R1 & R3 Mr.V.C.Selvasekaran, Standing Counsel for R2



ORDER

This writ petition has been filed seeking to issue a direction to the 2nd respondent and also to the Vending Committee to be constituted by the 2nd respondent to consider the representation of the petitioner dated 30.01.2018 for grant of license to run her refreshment stall in the bunk and for a consequential direction forbearing the 2nd respondent to permit the petitioner to run her business until her request for license is considered.

2. The case of the petitioner is that she is a differently abled person and has been running a business of selling of tea, coffee and tiffin by putting up a bunk without causing any disturbance to the general public. She has been eking out her livelihood from out of the income derived through her petty business. While so, the respondents have been attempting to dispossess the petitioner and to remove the bunk. Hence, this writ petition.

3. The learned counsel for the petitioner reiterating the averments in the writ petition submitted that the petitioner is a self employed and she has been running her petty business in the bunk shop without causing any nuisance to the general public.

4. The learned standing counsel for the respondent corporation, on instructions, submitted that there was no such bunk available as projected by the petitioner. He, however, submitted that as per the provisions in The Street Vendors (Protection of Livelihood Regulation) Act, 2014, necessary steps have been taken to constitute Street Vending Committee and as soon as the election is over, committee will be formed and thereafter, the requests for such permission from the street vendors would be considered by the committee. The petitioner can very well approach the Vending Committee after the same is formed and in such an event, the request of the petitioner for the grant of permission/license to run her business in the bunk shop on the road margin will be considered according to law. Further, he brought to the attention of this court a recent judgement of a learned single Judge of this court in W.P.No.16054 of 2013 dated 20.09.2018 whereby this court refused to give a positive direction for the grant of license/permission to run the business in the bunk shops, but, however, directed the petitioners therein to vindicate their grievances before the Committee constituted under the provisions of the Central Act.

5. I have considered the rival submissions carefully.



6. In similar circumstances, this court very recently in D.S.Sundar v. The Special Commissioner for Handicapped, Office of the State Commissioner of Disabled, Chennai and others (W.P.No.16054 of 2018 dated 20.09.2018) has held that the grievance of the street vendors regarding the grant of permission or license for running the business in the bunk shops can only be vindicated before the Vending Committee and the relevant portion of the judgement of this court reads as follows:

"22. In this view of the matter, the relief, as such, sought for by the writ petitioners in these batch of writ petitions, cannot be granted. However, it is made clear that all such grievances, now brought to the notice of this Court, can be vindicated before the Committee constituted under the provisions of the Act, for the purpose of redressal of the cases of the writ petitioners in these batch of writ petitions and the writ petitioners are at liberty to submit their respective representations/applications/objections before the Town Vending Committee for their consideration and for taking a decision on merits and in accordance with law and considering the policy decisions of the Government in this regard. If any person is in occupation of a Non-Vending Zone or not meant for vending, as per the decisions of the competent authorities, then the authorities are bound to evict all those encroachers by following the procedures contemplated under the Tamil Nadu Land Encroachments Act, 1905."

7. In the light of the above position and having regard to the facts and circumstance of the case, this court is inclined to dispose of the writ petition with the following directions:-

(i) The petitioner is permitted to submit her application for license/permission for bunk shop, if so desires, before the Town Vending Committee to be constituted and

(ii) on such application from the petitioner, the Committee shall consider the same and pass suitable orders on merits and in accordance with law within a reasonable time.



8. In the result, the writ petition is disposed of as indicated above. No costs.

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Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

To

1. The Special Commissioner,
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2. The Commissioner,
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Ripon Building, Chennai 600003.
3. The Commissioner of Police,
E.V.R. High Road, Chennai 600007.

+1cc to M/s.N.A.Sadique, Advocate S.R.No.69103

KR/8/11/18

W.P.No.21035 of 2018