

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated: 04.10.2018

CORAM
THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.21947 of 2018

A.R.Shakeel Ahamed

... Petitioner

-Versus-

- 1.Government of Tamil Nadu,
Rep. by its Secretary,
Local Administration Department,
Secretariat, Fort St. George,
Chennai 600009.
- 2.The State Commissioner for
Differently Abled Person,
O/o State Commissioner for
Differently Abled SRDC,
Jawaharlal Nehru Inner Ring Road,
K.K.Nagar, Chennai 600078.
- 3.The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai 600003.
- 4.The Commissioner of Police,
E.V.R.High Road,
Vepery, Chennai 60007.
- 5.The Chairperson,
Zonal Executive Engineer - Zone-9,
The Township Vending Committee,
Corporation of Chennai,
Chennai 600034.
- 6.The Inspector of Police,
F-3, Traffic Department,
Nungambakkam Police Station,
Chennai 600034.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 3rd respondent to consider the representation of the petitioner dated 18.07.2018 for restoration of his bunk shop which was taken away by corporation on 20.03.2018 and for a direction

forbearing the 3rd respondent and their official servants from in any way interfering with the business of the petitioner in the bunk shop in selling Tea, Coffee and snack items near Standard Chartered Bank, Haddows Road, Nungambakkam, Chennai till the Township Vending Committee decides as per the provisions of the Street Vendors (Protection of Livelihood Regulation) Act.

For Petitioner	: Ms.K.Akilandeswari
For Respondents	: Mrs.K.Bhuvaneswari, Addl. Govt. Pleader for R1, R2, R4 and R6 Mr.V.C.Selvasekaran, Standing Counsel for R3 & R5

ORDER

This writ petition has been filed seeking to issue a direction in the form of writ of mandamus forbearing 3rd respondent to consider the representation of the petitioner dated 18.07.2018 for restoration of his bunk hop which was taken away by corporation on 20.03.2018 and for a direction forbearing the 3rd respondent and their official servants from in any way interfering with the business of the petitioner in the bunk shop in selling Tea, Coffee and snack items near Standard Chartered Bank, Haddows Road, Nungambakkam, Chennai till the Township Vending Committee decides as per the provisions of the Street Vendors (Protection of Livelihood Regulation) Act.

2. The case of the petitioner is that he is a differently abled person with physical deformity of 75% and he was running a business of selling of tea, coffee and snacks by putting up a bunk without causing any disturbance to the general public for over 16 years. He was eking out his livelihood from out of the income derived through his petty business. While so, on 20.03.2018, the officials from the Corporation of Chennai, under the guise of removal of encroachment, had forcibly removed the bunks put up at the margin of Haddows Road put up by the persons similarly placed as that of the petitioner and on representation from the owners of the bunks, except the petitioner's bunk, others were returned. According to the petitioner, he had given representations twice seeking for restoration of the bunk and permission to continue his business in the bunk shop. The grievance of petitioner is that the respondents have not considered his representation till date. Hence, this writ petition.

3. The learned counsel for the petitioner reiterating the averments in the writ petition submitted that the petitioner is a differently abled person and he was a self employed and was leading a very decent and dignified life from out of the income deriving from petty business in the bunk shop without causing any nuisance to the general public. While so, all of a sudden, the officials from the Corporation of Chennai had removed his bunk and rendered him jobless.

4. The learned standing counsel for the respondent corporation, on instructions, submitted that the bunk put up by the petitioner had been removed by the officials of the respondent corporation, he however submitted that the representation of the petitioner would be considered and prayed this court to grant two weeks time to enable the respondents to pass appropriate orders on the representation of the petitioner in this regard.

5. The learned standing counsel further 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 his 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.

6. I have considered the rival submissions carefully.

7. 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."

8. 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 2nd respondent is directed to consider the representation made by the petitioner for the return of the bunk removed from the petitioner;

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

(iii) 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.

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

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kmk

To

1.The Secretary, Local Administration Department,
Secretariat, Fort St. George, Chennai 600009.

- 2.The State Commissioner for Differently Abled Person,
O/o State Commissioner for Differently Abled SRDC,
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+1cc to Mr.K.Akhilandeswari, Advocate, S.R.No.68769
+1cc to the Government Pleader, S.R.No.69168

W.P.No.21947 of 2018

SSD(CO)

rrs 16/11/2018



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