

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.11957 of 2018
and
W.M.P.No.13946 of 2018

S.Rosi .. Petitioner

Vs.

1. The Collector,
Chennai District, Chennai.

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

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to forbear the second respondent from interfering with the petitioner's peaceful possession and employment of his business run in a bunk laid and installed at No.2/1, Mohamed Hushen Street, Anna Salai, Chennai-2.

For petitioner : Mr.V.Shivalingam

For respondents: Mr.B.Anand, Govt. Advocate for R-1
Mr.T.C.Gopalakrishnan for R-2

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus to forbear the second respondent from interfering with the petitioner's peaceful possession and employment of his business run in a bunk laid and installed at No.2/1, Mohamed Hushen Street, Anna Salai, Chennai-2.

2. Learned counsel for the second respondent submitted that in a similar batch of cases, this Court in W.P.Nos.32355 to 32358, 32668 and 32812 of 2017, by order dated 21.12.2017, has disposed of those Writ Petitions with the following observations/directions:

"11. On a perusal of the above Statement, it is seen that it does not contain the names of persons to whom bunk shops were allotted by the officials or their residential address or the persons, whom the aggrieved persons approached and made representations

before the appropriate authority.

12. It is represented by the learned counsel appearing for the second respondent/Corporation that each Zone has got separate authority, who will hear the request of the petitioners and that the petitioners can make their representations before the said Vending/Hawking committee.

13. This Court expects that the details of the Committee have got to be exhibited in the Notice Board in that area, in order to enable the aggrieved persons, note down the Circular containing the names of persons or to take photographs of the Circular, so that, representations can be made, which will prevent the litigant run from pillar to post. As and when a Committee Member is replaced by another Member, such details shall also be immediately exhibited in the Notice Board.

14. As representations are pending pursuant to the order of this Court, the respondent-Corporation of Chennai is expected to dispose of the same at the earliest point of time, within the time stipulated by this Court and the Vending/Hawking committee must ensure that the said bunk shops in these Writ Petitions are preferably not situated before/near the Schools, Colleges and Hospitals and that they shall not sell any hazardous products like cigarettes, paanparag, etc. Petitioners herein are eking out their livelihood by running bunk shops. Hence, it is for the State to encourage self-employment, as they are not in a position to provide employment to all citizens, who are qualified. By creating self-employment, the State can ensure compliance of Article 19 and Article 41 of the Constitution of India. It is needles to state that the Corporation of Chennai, which has formed the Vending/Hawking committees, shall consider the request of aggrieved persons at the earliest point of time, so that they can decide about the further course of action, either to question the rejection order or to enable the aggrieved persons, take up other avocation.

15. Accordingly, the petitioners shall make fresh representations to the the Vending/Hawking Committee within one month from the date of receipt of a copy of this order and the same shall be considered by the said Committee within a period of one month, thereafter. The names of the members of the Vending/Hawking Committee shall be furnished to the petitioners or exhibited in the Notice Board in the respective Zone, to enable the petitioners approach the said Committee, as the case may be.

16. Further, it is represented that the bunk shop in W.P.No.32812 of 2012, which was already there, has been removed by the Corporation. According to the learned counsel appearing for the Corporation, the said bunk shop was not there and even assuming that it was there, it was removed only by the petitioner. In reply, the learned counsel for the petitioner submitted that the Bunk shop in W.P.No.32812 of 2012 had been removed by the Corporation and it is in the custody of the Corporation. It is made clear that when the petitioner in W.P.No.32812 of 2012 approaches the Hawking/Vending committee concerned, it shall examine this issue and render a finding on that aspect.

17. It is needless to state that the respondents shall follow the guidelines formulated in the order dated 18.09.2017 passed by the Hon'ble Apex Court in W.P.No.1141 of 1987 together with the order dated 12.10.2017 passed by this Court in W.P.No.26134 of 2017 for grant of regularisation to the petitioners. Those who are interested in availing a shop by approaching the Vending/Hawking Committee, must produce a copy of their Aadhar Card, failing which, no indulgence need be shown to them. This will prevent duplication of shops in the name of the same person.

18. With the above observations and directions, all the above Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petition is closed.

19. Before parting with the cases, this Court opines that the Corporation of Chennai shall scrupulously follow the above directions/observations in respect of allotment/grant of licence to the bunk shops in and around the city of Chennai."

3. In this case, from the photograph produced by the learned counsel for the petitioner, it is seen that the shop in question is not the bunk shop, but it is a shop in the form of putting a small table and the business is carried on with cooking gas for preparing Idli, Dosa, etc., and hence, the contention of the petitioner to forbear the second respondent from interfering with his business, cannot be accepted.

4. Furthermore, in the said batch of Writ Petitions, this Court has observed and granted necessary relief as extracted supra. Following the above said order passed in those batch of Writ Petitions, the present Writ Petition is also disposed of, with the same observations/directions applicable to the case of the petitioner herein. No costs. Consequently, W.M.P. is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

cs

To

1. The Collector,
Chennai District, Chennai.
2. The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai-600 003.

+1cc to Mr.T.C.Gopalakrishnan, Advocate sr.no.34783
+1cc to Mr.V.Shivalingam, Advocate sr.no.35510
+1cc to Government Pleader in sr.no.35345

W.P.No.11957 of 2018

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nr 13/06/2018

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