

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.01.2018

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

W.P.No.26598 of 2017

M.Kumar .. Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai
Ribbon Buildings,
Chennai - 600 003

2. The Chairperson /
Zonal Executive Engineer Zone No.7
(The Township Vending Committee)
Corporation of Chennai
Chennai - 600 053

3. The State Commissioner,
For Differently Abled,
Chepauk,
Chennai - 600 058

..Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the Respondents 1 and 2 to consider and pass orders on the Petitioner's representation dated 21.09.2017 as per the provisions of the Street Vendors (Protection for Livelihood Regulation) Act, 2014 made for granting permission / certificate of Vending and till such time not to disturb with the running of the petitioner's bunk at CC Bank Compound, opposite to EB office, Thirumangalam Junction, Annanagar West, Chennai - 600 040, wherein selling tea coffee and food items by using LPG stove, wherein selling tea, coffee and food items by using LPG Stove.

For Petitioner : Mr.R.Kamaraj

For Respondents : Mr.A.Nagarajan for R1 and R2

Ms.M.Lalitha
Government Advocate

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

Heard both sides. By consent, the main Writ Petition itself is taken up for final disposal.

2. According to the Petitioner, he is differently abled person having permanent disability of 85% and is running a bunk shop at CC Compound, opposite to EB Office, Thirumangalam Junction, Annanagar West, Chennai - 600 040 for the past several years. He is selling tea, coffee and food items by using LPG stove in a hygienic manner. It is the Petitioner's case that his bunk is no way disturbing the general public for the free flow of traffic.

2. The version of the Petitioner is that as per Section 3 of the Street Vendors (Protection of Livelihood Regulation) Act, 2014, no 'Street Vendor' shall be evicted, or as the case may be, relocated till the survey specified under Sub Section (1) has been completed and the Certificate of Vending is issued to all Street Vendors. However, the officials of the Respondents are trying to interfere with the running of Petitioner's bunk shop as it is 'unauthorised'.

3. At this stage, the Learned Counsel for the Petitioner points out that the Central Government had enacted "The Street Vendors (Protection of Livelihood Regulation) Act, 2014" safeguarding the "Street Vendors" by regulating their business and by the aforesaid, the State Government has to form The Town Vending Committee and the Committee shall declare a Zone or part of which to be a non vending zone for any street purpose, the Street vendors vending in that area, in such manner, as may be specified in the scheme etc.,

4. The grievance of the Petitioner is that as per provisions of the above Act, the State Government has to form a Township Vending Committee and take steps to regulate the Street Vending and still such time, the Petitioner's business shall not be disturbed in the aforesaid place.

5. It comes to be known that the Petitioner had addressed a representation on 21.09.2017 before the 2nd Respondent narrating the facts and requested to grant permission / Certificate of Vending for continuing his bunk shop in the aforesaid place. In this connection, the Learned Counsel for the Petitioner points out that in W.P.No.18677 of 2014 batch, this Court, has held that till the constitution of Town Vending Committee and its policy, there shall be no threat with regard to the running of the bunk shops. Therefore, the interference made by the Officials of the 1st Respondent is to be curtailed. The sum and

substance of the plea advanced on behalf of the Petitioner is that the conduct of the Officials of the Respondents in interfering the running of bunk shop is unsustainable in Law and as such, he has filed the present Writ Petition.

6. At this stage, this Court worth recalls the Common Order dated 21.12.2017 in W.P.No.32355 of 2017 etc., batch passed by one of us, viz., S.V.N.J., between [Jaishankar V. The Special Commissioner for Handicapped, Office of the State Commissioner of Disabled, No.15/1, Model School Road, Thousand Lights, Chennai - 600 003 and two others] whereby and whereunder in Paragraph Nos.14 to 19, it is observed as under:

"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 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."

7. In view of the aforesaid order dated 21.12.2017 passed by this Court in W.P.No.32355 of 2017 etc., batch, the Respondents 1 and 3 are directed to follow the exercise adumbrated in the Order dated 18.09.2017 passed by the Hon'ble Supreme Court in W.P.No.1141 of 1987 coupled with the order dated 12.10.2017 in W.P.No. 26134 of 2017 for grant of regularisation to the Petitioner. Accordingly, the Petitioner is directed to approach the Vending / Hawking Committee by producing the copy of his Aadhar Card and seek necessary relief thereto.

With the aforesaid observations and directions, this Writ Petition is disposed of. Before parting with the case, this Court, directs the 1st Respondent / the Commissioner, Corporation of Chennai to scrupulously adhere to the directions issued by this Court in W.P.No.32355 of 2017 etc., batch, which is extracted supra in regard to the allotment of licence to the Bunk shop in and around the city of Chennai. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ssd

To

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Chennai - 600 003

2. The Chairperson /
Zonal Executive Engineer Zone No.7
(The Township Vending Committee)
Corporation of Chennai
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3. The State Commissioner,
For Differently Abled,
Chepauk,
Chennai - 600 058

+1cc to Mr.R.Kamaraj, Advocate, S.R.No.5625

W.P.No.26598 of 2017

GMD (CO)
RRK(14/02/2018)

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