

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04..10..2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.22853 of 2018
and
W.M.P.No.26698 of 2018

S.Charles

... Petitioner

-Versus-

1.The Special Commissioner, For Handicapped
Office of The State Commissioner of Disabled,
No.15/1, Model School Road,
Thousand Lights, Chennai 600 006.

2.The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai 600003.

3.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai 600 007. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus forbearing the 2nd respondent or his subordinates from in any way interfering with petitioner's peaceful possession and enjoyment in running bunk shop in 10th Street, Nandanam Extension, Opposite to Venkateswara Hospital, Chennai 600035, where the petitioner is selling Tea, Coffee and Snacks using LPG stove.

For Petitioner : Mr.M.Arun

For Respondents : Mr.V.C.Selvasekaran,
Standing Counsel for
R2

ORDER

This writ petition has been filed seeking to issue a direction in the form of writ of mandamus forbearing the 2nd respondent from in any way interfering with the business being run by the petitioner in a bunk in 10th Street, Nandanam Extension, Opposite to Venkateswara Hospital, Chennai 600035,

2. The case of the petitioner is that he is a differently abled person and he has been running a business of selling of tea, coffee and snacks by putting up a bunk without causing any disturbance to the general public. He has been eking out his livelihood from out of the income derived through his petty business. While so, the respondents have been attempting to dispossess the petitioner and to remove the bunk. Therefore, he has submitted a representation dated 30.08.2018 to the 2nd respondent requesting him not to interfere with his business and seeking permission to continue run his business in the bunk shop. The grievance of the petitioner is that the 2nd respondents is taking steps to dispossess him without adhering to the order of this court in W.P.No.30094 of 2010 dated 29.12.2010 and without considering his representation. Apprehending dispossession, the petitioner is before this court with the instant 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 has been running his petty business in the bunk shop without causing any nuisance to the general public.

4. The learned counsel for the respondent corporation, on instructions, though admitted the fact that the petitioner has been running his business in the bunk shop as claimed in the writ petition, relying upon a judgement of a learned single Judge of this court in W.P.No.16054 of 2013 (batch cases) dated 20.09.2018 (D.S.Sundar v. The Special Commissioner for Handicapped, Office of the State Commissioner of Disabled, Chennai and others), he contended that the relief sought for by the petitioner cannot be granted and the petitioner can vindicate his grievance before the Committee to be formed under the provisions of the Central Act.

5. I have considered the rival submissions carefully.

6. 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 permission or license for running the business in the bunk shops can 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. At this juncture, the learned counsel for the petitioner submitted that since the petitioner has been doing his business in the bunk shop for a quite long number of months, until the committee is formed and the request of the petitioner for license is considered, he may be permitted to continue his business and the respondents may be directed not to disturb the business of the petitioner in the bunk shop.

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 petitioner is permitted to submit his application, if so desires, before the Town Vending Committee to be constituted and on such application, the Committee shall consider the request of the petitioner for the grant of such license / permission and pass suitable orders on merits and in accordance with law within a reasonable time.

(ii) Until such final decision is taken by the Town Vending Committee, the respondents are directed not to interfere with the business of the petitioner in the bunk shop and the respondents shall act according to the decisions to be taken by the Town Vending Committee on the application of the petitioner.

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

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

kmk

To

1. The Special Commissioner, For Handicapped
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No.15/1, Model School Road,
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2. The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai 600 003.

3. The Commissioner,
Greater Chennai,
Vepery, Chennai 600 007.

+ 1 cc to M/s. Arun, Advocate Sr.68688

W.P.No.22853 of 2018

(CS-VIII)
EU(08/11/2018)

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