

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2018

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THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.29000 of 2015
and
M.P.No.1 of 2015

B.J.Kantharaj

..Petitioner

Vs

1.The Government of Tamil Nadu,
Rep.by its Secretary,
Health and Family Welfare Department,
Fort St.George, Chennai - 9.

2.The Director of Medical Education,
O/o the Director of Medical Education,
Chennai -5.

3.The Chief Engineer,
Public Works Department,
Chepauk, Chennai.

4.The Director and Superintendent,
Government Eye and Ophthalmic Hospital,
Egmore, Chennai.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified mandamus, to call for the entire records connected with the proceedings of the 4th respondent in Ref.No.3320/P&D/2015, dated 12.08.2015 and quash the same and consequently direct the respondents to permit to run the petitioner kiosk, vending tea and coffee in the 4th respondent's hospital premises.

For Petitioner : Mr.K.Thilageswaran

For Respondents : Mr.J.Ramesh
Additional Government Pleader

O R D E R

The petitioner has come up with the present writ petition to quash the proceedings of the fourth respondent bearing

Ref.No.3320/P&D/2015, dated 12.08.2015 and for consequential relief.

2. The case of the petitioner is that he had been running a Naesey Kiosk for vending Snacks, Tea and Coffee etc., in the premises of Regional Institute of Ophthalmology and Government Ophthalmic Hospital, Chennai-8, after obtaining proper permission from the competent authorities. During the year 2012, the fourth respondent closed the Kiosk, which compelled the petitioner to file a writ petition in W.P.No.18404 of 2015. This Court, by order dated 25.6.2015, disposed of the said writ petition directing the petitioner to give a fresh representation to the respondents 3 and 4 and on such filing, the respondents should consider the same and allot a suitable place for running a Kiosk. Pursuant to the same, he made a representation dated 27.07.2015 to the respondents and the same was rejected by the fourth respondent by order dated 27.07.2015. Challenging the same, the petitioner is before this Court.

3. Upon notice, the respondents 1,2 and 4 filed a detailed counter affidavit inter alia stating that permission was granted to the petitioner to run the Kiosk in the Government Hospital only for vending tea and coffee, but, the petitioner had supplied other food items, which are not up to the quality standards, hygiene and worth for the amount paid by the public and the Kiosk was not maintained in a hygienic manner. Further, number of complaints were received from the public at large in respect of poor quality of food inside the hospital. Hence, the fourth respondent by the order impugned herein, cancelled the allotment of Kiosk, so as to maintain the hospital premises in a hygienic condition and to keep the surroundings clean.

4. The averments so made in the counter affidavit have been stoutly refuted by the learned counsel appearing for the petitioner. The learned counsel submitted that the issue involved herein came up for consideration in W.P.No.14593 of 2015 and this Court vide order dated 04.07.2018, passed the following order :

" ... 12. However, the persons who are already running the canteen need to be given an opportunity to improve the quality of food and hygiene and other respects. In this regard, the competent authorities shall give notice to all the administrators of the canteen enabling them to improve the quality of service in all respects. If they fail to do so within a stipulated period given by the authorities, then the authorities are at liberty to take steps to evict such canteen owners.

13. In the case on hand where the contract

period is lapsed, if the authorities so decide to extend the contract, sufficient conditions in these regard shall be imposed and in the event of complying with such requirements, the contract may be extended. Therefore, it is made clear that the authorities should ensure that hygiene, quality of food and pricing are maintained by these persons who are running canteens in all respects and there cannot be any compromise periodical inspection of these canteens by the administrative staffs of the medical department are certainly required.

14. Taking note of all these observations, the authorities are at liberty to take a decision for extending the contract by considering all these contracts. Accordingly, these writ petitions are disposed of...."

Therefore, the learned counsel prayed for a similar order in this writ petition as well.

5. The learned Additional Government Pleader reiterated the averments made in the counter affidavit. However, he submitted that there is no serious objection in granting such relief to the petitioner.

6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and also taking note of the fact that the licence for the petitioner's Kiosk had already been cancelled, the petitioner is directed to submit a fresh representation to the respondents within a period of two weeks from the date of receipt of a copy of this order and on such submission, the respondents shall consider the same and pass appropriate orders on merits and in accordance with law and also in the light of the earlier order of this Court dated 04.07.2018 in W.P.No.14593 of 2015, within a period of four weeks thereafter.

7. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

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To

1.The Secretary,
The Government of Tamil Nadu,

Health and Family Welfare Department,
Fort St.George, Chennai - 9.

2.The Director of Medical Education,
O/o the Director of Medical Education,
Chennai -5.

3.The Chief Engineer,
Public Works Department,
Chepauk, Chennai.

4.The Director and Superintendent,
Government Eye and Ophthalmic Hospital,
Egmore, Chennai.

+1cc to M/s.Law Vision, Advocate SR.No.61158

+1cc to Government Pleader SR.No.62118

W.P.No.29000 of 2015
and
M.P.No.1 of 2015

GMV (16/10/2018)



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