

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:04..10..2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.19418 of 2018
and
W.M.P.No.22850 of 2018

A.Ammu

... Petitioner

-Versus-

1.The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai 600003.

2.The Zonal Officer,
Zone IX,
Corporation of Chennai,
No.4, 4th Cross Street,
Lakeview Road,
Chennai 600034.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the 2nd respondent relating to the proceedings dated 27.04.2018 in Ref.No.Z.O. IX C.No.04594/2018 and to quash the same and for a consequential direction to the 2nd respondent to grant a permission/license to the petitioner for running his business in the bunk shop at No.198/756, opposite to Sangeetha Vidyalaya (Poompuhar), Vasam Avenue, Chennai 600002 and for a further direction to the 2nd respondent not to disturb the business of the petitioner in the bunk shop till such permission is granted.

For Petitioner
For Respondents

: Mr.L.Chandrakumar
: Mr.V.C.Selvasekaran,
Standing Counsel for
R1 and R2

ORDER

This writ petition has been filed challenging the

validity of the order dated 27.04.2018 in Ref.No.Z.O. IX C.No.04594/2018 passed by the 2nd respondent rejecting the representation of the petitioner thereby refusing to grant license for running bunk shop business to the petitioner and for a consequential direction to the 2nd respondent to grant a permission/license to the petitioner for running his business in the bunk shop at No.198/756, opposite to Sangeetha Vidyalaya (Poompuhar), Vasam Avenue, Chennai 600002 and for a further direction to the 2nd respondent not to disturb the business of the petitioner in the bunk shop till such permission is granted.

2. The case of the petitioner is that she is a differently abled person and has been running a business of selling of tea, coffee and tiffin by putting up a bunk. She has been eking out her livelihood from out of the income derived through her petty business. Earlier, she had submitted a representation to the respondents for the grant of permission / license for running her business in the bunk shop. Pending such representation, when the officials from the Corporation of Chennai had attempted to interfere with her business, she was forced to file a writ petition in W.P.No.29976 of 2017 and this court by order dated 09.10.2017 had disposed of the writ petition whereby this court had directed the respondents to consider her representation as per the provisions of The Street Vendors (Protection of Livelihood Regulation) Act, 2014 (in short, the Central Act"). As per the above said Central Act, the Committee being constituted alone is empowered either to grant permission to such street vendors to run business in the bunk shop or to refuse to grant such permission. Pursuant to the above said order of this court, the 2nd respondent rejected the representation of the petitioner for the grant of permission to run her business in the bunk shop. Thereafter, the respondents have been taking steps to remove the bunk shop of the petitioner and preventing her from doing her petty business. Hence, this writ petition.

3. The 2nd respondent filed his counter affidavit contending that after Central Act came into force, the Government of Tamil Nadu has framed necessary rules viz., "The Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme and Rules, 2015 and as per the said rules, Vending Committee should be formed. Upon the recommendation made by the Corporation of Chennai for the formation of the Vending Committee, the Government had already issued G.O.(4D) No.5, Municipal Administration and Water Supply (MC I) Department dated 05.10.2016 approving the recommendation forwarded by the Corporation and the 1st respondent by his proceedings dated 01.11.2016 in R.D.C.No.007/2016 has initiated steps for the formation of the Vending Committee. As per Rule 12 of the Rules, election for Street Vendors as the member of the Town

Vending Committee should be conducted in order to discharge the functions of the Town Vending Committee as enshrined in Rule 20 of the Rules. On completion of election and constitution of the Town Vending Committee with the representatives of the Street Vendors, street vendor's charter will be prepared and published as enshrined in Section 26 of the Central Act.

4. The 2nd respondent further contended that now steps have been taken for conducting election 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 her business in the bunk shop on the road margin will be considered according to law.

5. The learned counsel for the petitioner reiterating the averments in the writ petition submitted that the petitioner is a differently abled person and she has been running her petty business in the bunk shop without causing any nuisance to the general public and the impugned order has been passed in violation of the principles of natural justice. Further, according to the learned counsel, the impugned order is liable to be set aside for want of jurisdiction.

6. The learned counsel for the respondent corporation, on instructions, though admitted the fact that the petitioner has been running her 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 her grievance before the Committee to be formed under the provisions of the Central Act.

7. I have considered the rival submissions carefully.

8. The grievance of the petitioner is that the 2nd respondent has no jurisdiction to decide the request of the petitioner and it is only for the Town Vending Committee to be constituted under the Central Act and the 2nd respondent ought to have waited until such committee is constituted and placed the papers before the Committee for appropriate action. 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."

9. At this juncture, the learned counsel for the petitioner submitted that since the petitioner has been doing her 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, she may be permitted to continue her business and the respondents may be directed not to disturb the business of the petitioner in the bunk shop.

10. 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 her 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.

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

Kmk

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner, Corporation of Chennai,
Ripon Buildings, Chennai 600003.

2.The Zonal Officer, Zone IX, Corporation of Chennai,
No.4, 4th Cross Street, Lake View Road, Chennai 600034.

+1cc to Mr.R.Kamaraj, Advocate S.R.No.68938

KR/15/11/18

W.P.No.19418 of 2018

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