

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09..10..2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.19681 of 2018

Chennai Maanagar Siru Vyabarigal
Sangangalin Kootamaippu,
Rep. by its General Secretary,
B.Karunanidhi,
No.88, 2nd Floor,
Perambur Baracks Road,
Doveton,
Chennai 600007.

... Petitioner**-Versus-**

- 1.The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai 600003.
- 2.The Chair Person / Executive Engineer,
Township Vending Committee,
Zone XIII,
Corporation of Chennai,
Chennai 600020.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying to issue a Writ of Mandamus directing the 2nd respondent to
consider and pass orders on the petitioner's representation dated
8.6.2018 for the grant of certificate of vending/ license to the

members of the petitioners Association within a time frame to be fixed by this Court and till such time not to disturb with the running of the bunk shops by the members of the petitioner Association in the pushcart / handcart / moving cart / bunk shops / mobile shops in the road side margin of 3rd avenue 7th avenue and Mahatma Gandhi Road in Besant Nagar area, Chennai 90 thereby selling fancy items cloth items food items fruits flowers vegetables tender coconut and other items as per the list of members appended to the writ petition.

For Petitioner : Mr.R.Kamaraj
For Respondents : Mr.V.C.Selvasekaran,
 Standing Counsel for
 R1 and R2

ORDER

This writ petition has been filed seeking for a direction to the 2nd respondent in the form of writ of mandamus for considering representation of the petitioner association for the grant of certificate of vending/ license to its members so as to peacefully carryout their business of selling fancy items, cloth items, food/snack items, fruits, flowers, vegetables, tender coconuts and other items either in the pushcart / handcart / moving cart / bunk shops / mobile shops in the road side margin at 3rd avenue, 7th avenue and Mahatma Gandhi Road in Besant Nagar area, Chennai 90 and for a further direction to the respondents not to disturb with the

business of the members of the petitioner association until the representation of the petitioner association is considered.

2. The petitioner is an association of the road side vendors who belong to fishermen community. According to the petitioner, its members have been carrying on their petty business on the road side in small makeshift carts at Besant Nagar area in Chennai and have been selling fancy items, cloth items, food items, fruits, flowers, vegetables, tender coconuts and other petty house-hold items without causing any hindrance or disturbance to the general public. In the year 2004, when Tsunami hit Chennai, the members of the petitioner association had suffered heavy loss and thereafter, they have started to do their petty business in push carts / make shift carts. They have also been issued with identity cards by the officials of the respondent corporation.

3. Further, according to the petitioner, in order to protect the livelihood of the roadside vendors, the Central Government has enacted, "The Street Vendors (Protection of Livelihood Regulation Act, 2014" and as per the provisions of the said Act, the Town

Vending Committee (to be constituted) is empowered to settle dispute regarding street vending. When similarly placed street vendors had approached this court by way of W.P.No.18677 of 2014 etc. batch, this court passed an order protecting the interests and the livelihood of the road side vendors. The grievance of the petitioner is that the representations submitted to the 2nd respondent for grant of certificate of vending have not been considered. Hence, this writ petition.

4. 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.

5. 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 association 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 their business in the bunk shop on the road margin will be considered in accordance with law.

6. Heard both sides.

7. The learned standing counsel for the respondents, on instructions, submitted that out of 21 members, 14 alone were enumerated as vendors and identity cards have also been given to them. The learned counsel further submitted that since the other members have not made any representation for enumeration, they may be directed to submit representations individually to the authority concerned for getting their names enumerated.

8. The learned standing counsel further added that the relief sought for by the petitioner cannot be granted at this stage and the members of the petitioner association can vindicate their grievance before the Committee to be formed under the provisions of the Central Act.

9. The learned counsel for the petitioner while conceding the position submitted that the members, whose names did not find place in the enumeration, are prepared to submit representation individually to the 2nd respondent and therefore, he prayed this

court to pass suitable orders in this writ petition.

10. 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."

11. At this juncture, the learned counsel for the petitioner submitted that since some of the members of the petitioner have been doing their business in the makeshift carts / bunk shops for a quite long number of months, until the committee is formed and the request of the road side / street vendors for license is considered, they may be permitted to continue their business as such and the respondents may be directed not to interfere with their business.

12. 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 members of the petitioner those who are not enumerated are permitted to approach the authority concerned with individual representations

to get enumerated themselves as street vendors, if so desire;

(ii) The members of the petitioner, those who were already enumerated / the members those who are yet to be enumerated, after being enumerated, are permitted to approach the Town Vending Committee to be constituted for grant of certificate of vending and on such applications, the Committee shall consider their requests of the members 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.

(iii) Until such final decision is taken by the Town Vending Committee, the respondents are directed not to interfere with the business of the members of petitioner in the makeshift cart/bunk shops who are already enumerated by the respondent corporation and the respondents shall act according to the decisions to be taken by the Town Vending

Committee on the application of the petitioner.

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

Index : yes / no

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Internet : yes / no

Speaking / Non Speaking Order
kmk

To

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

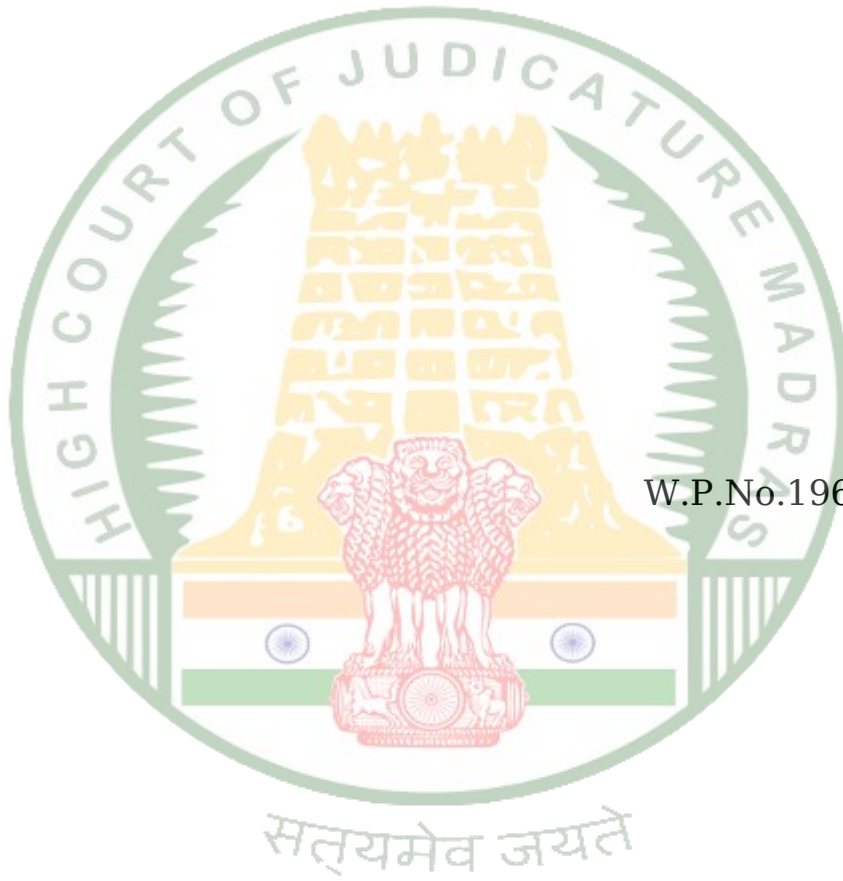
2.The Chair Person / Executive Engineer,
Township Vending Committee,
Zone XIII,
Corporation of Chennai,
Chennai 600034.



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V.BHARATHIDASAN.J.,

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