

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2018

CORAM:

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

W.P.No.26825 of 2016

K.Anbumani
Secretary,
Triplicane Pycrofts Road (Bharathi Salai),
Nadai Paathai Old Books Viyabarigal
Pothu Nala Sangam,
Canal Street, Triplicane,
Chennai 600 005. Petitioner

vs.

1. The Zonal Officer - Zone No.IX,
Corporation of Chennai,
4th Cross Street,
Nungambakkam,
Chennai 600 034.
2. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai 600 003. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, forbearing the Respondents, their men, agents, servants, subordinates or anyone acting under them not to in any manner disturb the members of the Sangam carrying on business of selling old books in the Triplicane Pycrofts Road (Bharathi Salai) demarcated as a hawking zone pursuant to the order passed by this Court, dated 06.04.2006 by framing a scheme in W.P.No.1049 of 2006 and other connected matters for the purpose of regulating the hawking activity within the Corporation limits of Chennai City or in the alternative relocate the members of the Sangam to an alternative site to be allotted by the Government for the purposes of carrying on business of selling old books in the Triplicane Area.

For Petitioner : Mr.T.T.Ravichandran

For Respondents : Mr.V.C.Selvasekaran

O R D E R
(Order of the Court was made by M.VENUGOPAL,J.)

Heard the Learned Counsel for the Petitioner and the Learned Standing Counsel appearing for the Respondents 1 and 2.

2. According to the Petitioner, it is a registered Sangam registered before the Registrar of Societies (vide Registration No.61/2004) with an object to protect the business of 38 hawkers, who are selling old books in the pavement of Pycrofts Road, Triplicane, Chennai-600 005.

3. It is represented on behalf of the Petitioner/Sangam, that on 07.10.2002, a Hawking Committee was constituted by this Court headed by Justice A.Kanagaraj (Retired Judge of this Court) to identify the Hawking Zone in Chennai City. Later, a draft scheme was framed by an order of this Court, dated 06.04.2006 in W.P.No.1049 of 2006 filed by the Petitioner therein and the said scheme was incorporated in the aforesaid order along with other connected Writ Petitions and the Implementation Committee was formed headed by Justice A.Ramamurthy (Retired Judge of this Court appointed to be Chairman of the Committee) and Pycrofts Road in Triplicane area was identified by the Implementation Committee.

4. At this stage, Learned Counsel for the Petitioner/Sangam pointed out that the members of the Petitioner/Sangam were recognized as Hawkers in the proceedings of the Corporation of Chennai, dated 23.03.2007. In fact, the hawkers were issued with Identity Cards by the 2nd Respondent/Commissioner of Corporation, Chennai. The grievance of the Petitioner/Sangam is that the subordinates of the 2nd Respondent/Corporation of Chennai made a representation to evict the members of the Petitioner/Sangam and a complaint was given on 22.07.2015 to the Hawking Committee. Even prior to the aforesaid incident, the Chairman of the Hawking Committee, on 24.06.2015, had directed the Regional Deputy Commissioner (Central) to stop dumping waste materials from the Corporation Middle School and the Deputy Commissioner was reminded about the order passed by this Court, dated 06.04.2006

5. Apart from that, the Petitioner/Sangam has come out with a plea that on 04.08.2015, once again, the Junior Executive Engineer of the 2nd Respondent/Corporation had demolished the School compound wall and caused excessive damages to the Petitioner's books and the same was brought to the notice of the Hawking Committee.

6. Moreover, on 24.02.2016, the Councilor of the local Party members and Junior Engineer of the 2nd Respondent/Corporation visited the spot, where the

Petitioner/Sangam were carrying on business and threatened to evict them forcibly. At that point of time, the members of the Petitioner/Sangam were informed that the said place was required for distribution of free water. The said Act of the Corporation was brought to the notice of the Hawking Committee Chairman, through representation dated 25.02.2016. On 26.02.2016, directives were issued by the Chairman of the Implementation Committee to the Regional Deputy Commissioner (Central) bringing to the notice that the authorities cannot carry out eviction without providing alternative site to the eight Hawkers, etc.

7. The Petitioner/Sangam, insofar as the present Writ Petition is concerned, is seeking the relief of mandamus from this Court to forbear the Respondents, their Agents, Servants, Subordinates, etc, not to disturb the members of the Sangam carrying on business of selling old books in the Triplicane Pycrofts Road (Bharathi Salai) demarcated as a Hawking Zone, pursuant to the order passed by this Court, dated 06.04.2006 by framing a Scheme in W.P.No.1049 of 2006 and other connected matters for the purpose of regulating the hawking activity within the Corporation limits of Chennai City or in the alternative, relocate the members of the Sangam to an alternative site to be allotted by the Government for the purposes of carrying on business of selling old books in the Triplicane Area.

8. Per contra, it is the submission of the Learned Counsel appearing for the Respondents 1 and 2 that as per the direction of the Chairman, Hawking Zone Implementation Committee, a total number of 37 old book-sellers were identified in Pycrofts Road (Bharathi Salai, Triplicane, Chennai-600005) and after identifying the members, Identity Cards were issued to 37 Hawkers by allotting space in Pycrofts Road, Triplicane, Chennai.

9. Learned Standing Counsel appearing for Respondents 1 and 2 brings it to the notice of this Court that a Corporation School was in existence near to the place allotted to the Hawkers in Pycrofts Road (Bharathi Salai), Triplicane, which is a 150 year old building and the compound wall of the said building was in dilapidated condition and the officials of Greater Chennai Corporation had demolished the compound wall, avoiding the danger of lives of the school going children and also the general public including the Hawkers. After demolition of the compound wall, the place was fenced with Zinc sheet, allowing the Hawkers to carry on their business without any hindrance.

10. Learned Counsel proceeded to point out that the Greater Chennai Corporation Council had passed a Resolution vide Resolution No.251/2016, dated 26.02.2016 for providing purified water "Amma Kudineer" to the general public within the Chennai

City limits and the Greater Chennai Corporation had identified a school building facing Pycrofts Road (Bharathi Salai), Triplicane for "Amma Kudineer", which is solely for public purpose and that the entrance for the same was constructed with steps facing Pycrofts Road (Bharathi Salai), Triplicane. He further submitted that only four Hawkers were advised to move and keep the shops aligning with other shops and that the said four Hawkers had already aligned their shops a little bit and are running their business.

11. The primordial stand taken by the Respondents is that the Greater Chennai Corporation has neither evicted nor interfered with the business of the Hawkers and in fact, only four Hawkers were advised to move a little bit in order to allow the general public to utilize 'Amma Kudineer'.

12. In view of the fact that the Respondents have clearly taken out their stand that the Greater Chennai Corporation has neither evicted nor interfered with the business of the Hawkers, etc., this Court recording the aforesaid factum of the Chennai Corporation, directs the Petitioner/Sangam to make a fresh representation to the Vending/Hawking Committee, within one month from the date of enumeration and composition of Committee and the same shall be considered by the Committee, within a period of two months, thereafter. The names of the members of the Vending/Hawking Committee, shall be furnished to the Petitioner/Sangam or exhibited in the Notice Board of the respective Zone, to enable the Petitioner/Sangam approach the said Committee, as the case may be. It is abundantly made clear that when the Petitioner/Sangam approaches the Vending/Hawking Committee, it shall examine the issue and render a finding on that aspect.

13. It cannot be gainsaid that the Respondents shall follow the guidelines mentioned 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 petitioner/Sangam. Those who are interested to avail the opportunity of approaching the Vending/Hawking Committee, shall produce a copy of their Aadhar Card, failing which, no indulgence need to be shown to them, which will prevent duplication of shops in the name of the same person.

14. With the aforesaid observations and directions, this Writ Petition stands disposed of. No costs. Consequently, connected W.M.P.No.23058 of 2016 is closed.

15. Before parting with the present case, this Court fervently opines that the Corporation of Chennai shall scrupulously adhere to the aforestated directions/observations

in regard to the allotment/grant of licence to the members of the Petitioner/Sangam to carry on their avocation/business in the place identified by the Vending/Hawking Committee.

s/d-
Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

(aeb)

To:

1. The Zonal Officer - Zone No.IX,
Corporation of Chennai,
4th Cross Street,
Nungambakkam,
Chennai 600 034.
 2. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai 600 003.
- +1 CC to Mr.T.T.Ravichandran, Advocate sr 6124.

RSI (CO)
SP(13/02/2018)

W.P.No.26825 of 2016

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