

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.28325 of 2017

R.R.Lenin

.. Petitioner

Vs.

1. The State Commissioner for Differently Abled,
O/o The State Commissioner for Differently Abled,
J.N.Ring Road,
Chennai-600 078.
2. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.
3. The Township Vending Committee,
Corporation of Chennai,
Rippon Building,
Chennai-600 003.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to re-erect the bunk at the corner place of Royapettah High Road and Thiru-Vi-Ka First Street, Mylapore, Chennai-600 004, which was removed by them unauthorisedly without following the due process of law.

For petitioner : Mr.G.Veerapathiran

For respondents: Mr.S.N.Parthasarathy,

Govt. Advocate for R-1

Mr.R.Arun Mozhi for RR-2 & 3

ORDER

(The Order of the Court was made by M.Venugopal, J)

Heard both sides and perused the materials available on record. The respondent Nos.2 and 3 have filed counter affidavit. No counter affidavit is filed by the First Respondent.

2. The Petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents to re-erect the Bunk Shop at the corner place of Royapettah High Road and Thiru-Vi-Ka First Street, Mylapore, Chennai-600 004, which was removed by them unauthorisedly without following the due process of law.

3. According to the petitioner, he is a Differently Abled Person and was running a Bunk Shop at the corner place of Royapettah High Road and Thiru-Vi-Ka First Street, Mylapore, Chennai-600 004 and he is 80% Orthopaedically Handicapped Person and a Certificate was issued by the Competent Authority, namely the Institute of Rehabilitation Medicine, Chennai. He has taken care that the Bunk Shop in which he was carrying on petty business, was not disturbing any one or causing any hindrance whatsoever either to any pedestrian or any other user.

4. The plea of the petitioner is that the State Government was giving the Bunk Shops freely to Disabled Persons for erecting the same in the unobjectionable places so as to enable them to earn independently.

5. In the Writ Petition, the Petitioner has come out with a plea that the officials of the Second Respondent/Corporation of Chennai had interfered with the running of the Bunk Shop by the Petitioner, as it was "unauthorised". Hence, the Petitioner has addressed a representation on 24.10.2017, followed by another representation, dated 27.10.2017 to the Third Respondent/Township Vending Committee, Corporation of Chennai. Soon after receipt of his representations, on 28.10.2017, the Respondent Nos.2 and 3 had removed the Petitioner's Bunk Shop inspite of protest.

6. The Learned Counsel for the Petitioner emphatically submits that the removal of the Petitioner's Bunk Shop is not in accordance with law, and as such, the Petitioner is entitled to re-erect the Bunk Shop in the same place. Hence, the Petitioner has filed the present Writ Petition praying for passing an order by this Court in directing the Respondents to re-erect the Bunk Shop at the corner place of Royapettah High Road and Thiru-Vi-Ka Street, Mylapore, Chennai-600 004, which was removed by them unauthorisedly without following "due process of law".

7. Per contra, it is the contention of the Learned Counsel for the Respondent Nos.2 and 3 that for electing the members of the Town Vending Committee for Phase-II under Section 11 of the Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme and Rules, 2015, on par with Section 38(1) of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (Central

Act 7 of 2014) for three Zones in the Greater Chennai Corporation, viz., Zones-4, 9 and 12, the Notification was published in Daily Thanthi (Tamil Daily) and the New Indian Express (English Daily) and final phase of election was held on 08.12.2018.

8. The core stand of the Respondent Nos.2 and 3 is that the Petitioner can appear before the Third Respondent/Town Vending Committee of Greater Chennai Corporation, and obtain necessary orders from the said Committee to run the Bunk Shop.

9. In view of the crystalline plea taken by the Respondent Nos.2 and 3 to the effect that the 'Petitioner can appear before the Third Respondent/Town Vending Committee of the Greater Chennai Corporation for running the Bunk Shop', this Court, at this stage, without expressing any opinion on the merits of the matter, simpliciter, directs the Petitioner to submit his 'Fresh Written Representation' to run the Bunk Shop, before the Third Respondent-Town Vending Committee, within ten days from the date of receipt of a copy of this order. Soon after receipt of such representation of the Petitioner, the Third Respondent/Town Vending Committee is directed to look into the same with all seriousness and earnestness and pass a reasoned speaking order in the subject matter in issue, by adhering to the principles of natural justice in providing an opportunity of hearing to the Petitioner, within two weeks thereafter. It is open for the Petitioner to raise all factual and legal pleas before the Third Respondent. The Appropriate Authority of the Third Respondent who is considering the Petitioner's Representation, shall advert to the factual and legal pleas and pass a final 'Reasoned Speaking Order' in qualitative and quantitative terms, and in an unbiased, free, just and dispassionate manner, of course, uninfluenced and untrammelled by any of the observations made by this Court in the present Writ Petition. The Petitioner is directed to lend his assistance and unstinted co-operation in appearing before the Third Respondent and to take necessary positive steps in disposing of the said representation by the Third Respondent within the time adumbrated above by this Court.

10. With the above observations and directions, the Writ Petition stands disposed of. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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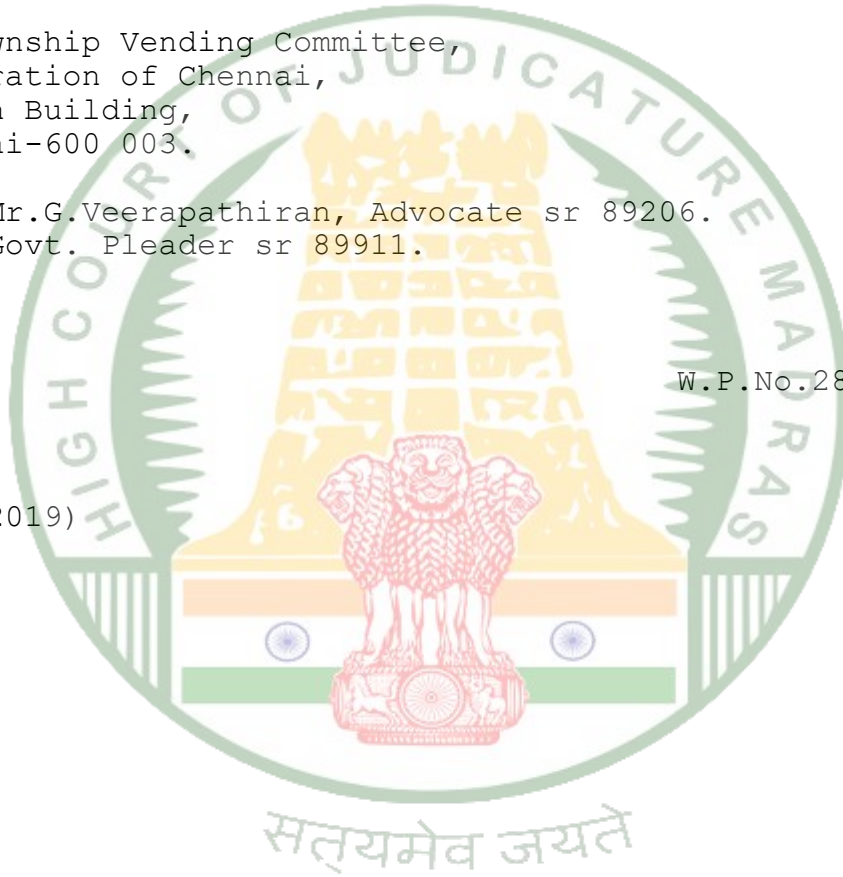
To

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+1 CC to Mr.G.Veerapathiran, Advocate sr 89206.
+1 CC to Govt. Pleader sr 89911.

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SP(11/01/2019)



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