

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.26004 of 2018
and
WMP No.30221 of 2018

John Abraham

...Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai,
Rippon building, Chennai 600 003.
2. The Chairman cum Zonal Officer,
(Street Vending Committee)
Zone XI, Corporation of Cehnnai,
Valasarawakkam,
Chennai 600 087.
3. The Executive Engineer,
Zone XI, Corporation of Chennai,
Valasarawakkam,
Chennai 600 087.
4. The Junior Engineer,
Ward 143, Zone XI, Corporation of Chennai,
Nolambur, Chennai 600 037.

...Respondents

Writ Petition Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to provide preferential allotment under Section 43 of the persons with disabilities (Equal Opportunities Protection Of Right and Full Participation) Act 1995 following the provision under Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014 to the petitioner to carry the petty shop on the road side of Mugappair west (Between Aavin Parlour and Indian Overseas Bank, Nolabur Branch) at Nolambur Salai, Mugappair west, Chennai 600 037 for the petitioner's rehabilitation, for which the petitioner has made representation dated 19.04.2018 to the Respondents.

For Petitioner : Mr.C.Jayaprakash
For Respondents : Ms.R.Arunmozhi

O R D E R

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The petitioner seeks a writ of mandamus directing the respondents to provide preferential allotment of a bunk shop as provided under section 43 of The Persons With Disabilities (Equal Opportunities Protection of Right and Full Participation) Act 1995 while making allotments under The Tamilnadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014 to enable him to carry on his business. The petitioner would claim that he is a disabled person and was carrying on business from a petty shop on the roadside in Moggapair west between Avin milk parlour and Indian Overseas Bank. According to him his name has been registered with the Second respondent namely the Chairman cum zonal officer (street vending committee) zone XI, Corporation of Chennai under the Tamilnadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014 on 10-4-2017. It is also claimed that an identity card has also been issued by the said committee.

2. Contending that the petitioner had made a representation on 19-4-2018 and despite the same the respondents have removed his bunk shop from its location to the office of the fourth respondent. Upon hearing the learned counsel for the petitioner we had directed the counsel for the first respondent to file a counter affidavit indicating the present status. Pursuant to the same the Asst Commissioner, zone XI, of the first respondent corporation has filed a counter affidavit. The said counter affidavit while acknowledging the receipt of the representation of the petitioner, states that the vending committee contemplated under the Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act is in the process of being formed. The election for electing the representatives of the street vendors as members of the committee has been conducted on 20-09-2018 and on formation of the committee the representation of the petitioner will be placed before the committee. It is also stated that the petitioner was not having a bunk shop earlier and he was given an identity card only to carry on vending of utensils in the road margin without affecting the free flow of pedestrians. A perusal of the identity card shows that the petitioner was carrying on business in selling utensils in Moggapair west area. No specific location has been shown in the Identity card as claimed by the petitioner. The counter affidavit would further state that the petitioner attempted to put up a bunk shop on the platform hindering movement of pedestrians the same was removed and was kept in the custody of the fourth respondent. It is also stated that the bunk has been returned to the petitioner after the filing of the writ petition.

3. From the averments in the counter affidavit it is seen that the respondents have only removed the bunk which was attempted to be put up by the petitioner. The pendency of an application would not authorise the petitioner to install a bunk shop that too at an objectionable location without the permission of the Greater Chennai Corporation. The prayer of the petitioner is only for issuance of writ of mandamus directing the respondents to consider his application on a preferential basis in view of section 43 of the Persons with Disabilities (Equal Opportunities Protection of Right and Full Participation) Act 1995. In fact the counter affidavit concedes the prayer of the petitioner, inasmuch as it states that the application of the petitioner will be referred to the street vending committee, once the same is constituted. We therefore see no necessity for issuance of a writ of mandamus as prayed for by the petitioner. However there will be a direction to the authorities to namely the street vending committee to consider the application of the petitioner for allotment of a bunk shop on a preferential basis in view of the fact that he is a person with disabilities.

4. The writ petition is disposed of the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

Jv

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

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Nolambur, Chennai 600 037.

+1cc to Mr.C.Jayaprakash, Advocate S.R.No.69983

+1cc to Ms.R.Arunmozhi, Advocate S.R.No.70101

KR/14/11/18

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