

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2018

CORAM

THE HONOURABLE Mr. JUSTICE V.BHARATHIDASAN

Writ Petition No.29227 of 2018

Saraswathi

... Petitioner

vs.

1. The State Commissioner for
Differently abled persons,
Office of the State Commissioner for
Differently abled persons,
SRDC, Jawaharlal Nehru Inner Ring Road,
K.K.Nagar, Chennai - 600 078
2. The Commissioner,
Chennai Corporation,
Rippon Building,
Chennai - 600 003.
3. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.
4. The Zonal Officer,
Chennai Corporation, Zone-10,
No.117, NSK Salai,
Kodambakkam,
Chennai - 600 024

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the second respondent dated 17.09.2018 made in Ma.Aa.10.Na.Ka.No.9608/2018, quash the same and consequently direct the respondents to grant permission to put up a bunk shop near Sewerage Water Tank, Nesapakkam, K.K.Naagar, Chennai or any other suitable place in the said vicinity forthwith.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mrs.Karthika Ashok,
Standing Counsel

ORDER

This writ petition has been filed seeking to issue a direction to the 2nd respondent to call for the records relating to the proceedings of the second respondent dated 17.09.2018 made in Ma.Aa.10.Na.Ka.No.9608/2018, quash the same and consequently direct the respondents to grant permission to put up a bunk shop near Sewerage Water Tank, Nesapakkam, K.K.Naagar, Chennai or any other suitable place in the said vicinity forthwith.

2. The case of the petitioner is that he intends to run a business of selling of tea, coffee and tiffin by putting up a bunk shop without causing any disturbance to the general public. Hence, the petitioner submitted several representations before the respondent. On 17.09.2018, the fourth respondent rejected the application given by the petitioner. Hence, this writ petition.

3. Heard both sides and also perused the available materials carefully.

4. The learned standing counsel for the Corporation submitted that as per the provisions in The Street Vendors (Protection of Livelihood Regulation) Act, 2014, necessary steps have been taken to constitute Street Vending Committee 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 his 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 he has been running his petty business in the bunk shop without causing any nuisance to the general public.

6. The learned counsel for the respondent corporation, however, brought to the attention of this court a recent judgement of a learned single Judge of this court in W.P.No.16054 of 2013 dated 20.09.2018 whereby this court

refused to give a positive direction for the grant of license/permission to run the business in the bunk shops, but, however, directed the petitioners therein to vindicate their grievances before the Committee constituted under the provisions of the Central Act.

7. I have considered the rival submissions carefully.

8. In similar circumstances, 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 of permission or license for running the business in the bunk shops can only 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."

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 his application for license/permission for bunk shop, if so desires, before the Town Vending Committee to be constituted and

(ii) on such application from the petitioner, the Committee shall consider the same and pass suitable orders on merits and in accordance with law within a reasonable time.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mrp

To

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+1 cc to Mrs.Karthikaa Ashok, Advocate Sr.No.76282

RK(CO)
CSL/20.02.2019

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