

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 28.11.2018

CORAM
THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE P. RAJAMANICKAM

W.A.No.2616 of 2018 and
CMP.No.21333 of 2018

K.Srinivasan

...Appellant/Petitioner

Vs

1.The Dean,
Madras Medical College,
Rajiv Gandhi Government General Hospital,
Chennai-3.

2.The Cheif Warden,
Post Graduate's Men's Hostel,
Madras Medical College,
Chennai-600 003.

...Respondents/Respondent

PRAYER:- Writ Appeal filed under clause 15 of the Letter Patents against the order dated 20.11.2018 in W.P.No.30680 of 2018 passed by the learned single Judge of this Court.

Writ Petition filed Under Article 226 of the constitution of India to issue a Writ of Certiorari calling for the entire records relating to the impugned order passed by the Second respondent in his proceedings Na.Ka.No. 04/2018, dt.16.11.2018 and quash the same.

For Appellant : Mr.C.Prakasam

For Respondents : Mr.E.Manoharan
Additional Government Pleader

JUDGMENT

[Judgment of the Court was delivered by M.SATHYANARAYANAN, J.,]

The appellant is the writ petitioner. The appellant/writ petitioner filed the writ petition in W.P.No.30680 of 2018, praying for issuance of Writ of Mandamus to quash the impugned order dated 16.11.2018 issued by the 2nd respondent, in and by which, he was called upon to vacate the canteen and handover possession. The said writ petition came to be dismissed, vide impugned order dated 20.11.2018 and challenging the legality of the same, came forward to file this writ petition.

2. A perusal of the materials placed before this Court would disclose among other things that the petitioner was awarded as a successful tenderer to run the catering service at Madras Medical College, Post Graduate Mens Hostel and his term got expired on 09.06.2017. The 2nd respondent, based on the request made by the Post Graduate Medical students, also took a decision to permit them to run a Canteen and the said fact was also informed to the petitioner, vide communication dated 23.05.2018.

3. The petitioner made a challenge to the said communication by filing W.P.No.13115 of 2018 and it was entertained and vide interim order dated 31.05.2018 made in W.M.P.No.15418 of 2018, this Court has directed to list the writ petition along with the earlier writ petition in W.P.No.12456 of 2018 and granted interim order till 05.06.2018. The said writ petition was also filed by the petitioner herein to quash the tender notification dated 07.05.2018 and during the course of arguments, it was submitted by the learned counsel appearing for the petitioner that a sum of Rs.19,00,000/- was due and payable by the respondents and this Court, while ordering notice of motion on 16.05.2018, granted liberty to him to proceed in accordance with law to recover a sum of Rs.19,00,000/- and also filed documents relating to the said arrears.

4. Mr.C.Prakasam, learned counsel appearing for the appellant / writ petitioner would forcefully contend that now the arrears has developed to a sum of Rs.23,00,000/- and despite the fact that the license period to run the canteen expired as early as on 19.06.2017, he was allowed to continue and he continued to run the catering service for the benefit of the post Graduate students, purely on sympathetic consideration and considering their welfare and all of a sudden, a decision has been taken to handover the said catering service to the Post Graduate Students themselves and in that event, he may not be in a position to recover the sum of Rs.23,00,000/- due and payable by the respondents and therefore, prays for interference.

5. Per contra, Mr.E.Manoharan, learned Additional Government Pleader, who accepts notice on behalf of the respondents, would submit that W.P.No.12456 of 2018 filed by the petitioner takes care of his interest and even in the order dated 16.05.2018 passed in the said writ petition, he was granted liberty to work out his remedy in accordance with law to recover the said sum and he cannot continue to run the catering service as a security for the alleged sum due and payable by the respondents. It is further submission of the learned Additional Government Pleader that since the Post Graduate Students themselves approached the 2nd respondent for the purpose of running the canteen, a fair decision has been taken to permit them to do so and further pointed out that the petitioner, being a licensee and his license also got expired, cannot claim to continue the same as a

matter of right and prays for dismissal of this writ appeal.

6. This Court paid its best attention to the rival submissions and also perused the materials placed before it.

7. The running of a catering service in respect of the students studying in Post Graduate Mens hostel is only a License and admittedly, license granted in favour of the appellant / writ petitioner got expired on 09.06.2017 and by way of an interim arrangement, it appears that he has been allowed to run the said service. The primordial submission of the learned counsel appearing for the appellant / writ petitioner is that as of now, a sum of Rs.23,00,000/- is due and payable by the respondents and in the event of allowing him to vacate and handover the premises, he may not be able to recover the said sum. In the considered opinion of this Court, the said submission lacks merit and substances for the reason that in the order dated 16.05.2018 made in W.P.No.12456 of 2018, this Court has taken note of the fact and made certain observations in Paragraph No.5 and the said writ petition is still pending.

8. Insofar as the decision taken by the 2nd respondent to handover the catering service/canteen to the Post Graduate students themselves, it is a policy decision and unless, it is actuated by arbitrariness or malafide, this Court cannot interfere with the same. Admittedly, the catering service / canteen is run for the benefit of the Post Graduate medical students, who are staying in the Hostel.

9. In the light of the above facts and circumstances, this Court is of the considered view that the present writ appeal lacks merits and it is liable to be dismissed.

10. In the result, this Writ Appeal is dismissed, confirming the order dated 20.11.2018 in W.P.No.30680 of 2018. No costs. In the light of the prayer sought for by the learned counsel appearing for the petitioner, Registry is directed to accord priority and list both the writ petitions in W.P.Nos.12456 & 13115 of 2018, for final disposal, subject to filing of counter affidavit by the official respondents. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sk

To

1.The Dean,
Madras Medical College,
Rajiv Gandhi Government General Hospital,
Chennai-3.

2.The Cheif Warden,
Post Graduate's Men's Hostel,
Madras Medical College,
Chennai-3.

Copy To:

The Assistant Registrar (Writs)
High Court, Madras.
(For listing W.P. Nos. 12456 and 13115 as per their
Lordships' directions).

+2ccs to Mr.C.Prakasam, Advocate, S.R.No.81685
+1cc to the Government Pleader, S.R.No.81658

W.A.No.2616 of 2018

SR(CO)

rrs 07/01/2019



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