



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.15492 of 2018

and

W.M.P (MD) .Nos.13948 and 13949 of 2018

1.R.Sounderrajan
2.S.Rajendran
3.S.Ravi
4.S.Shanmugam
5.K.Gopinath

... Petitioners

vs.

1. The District Collector,
Dindigul District,
Dindigul.

2. The Commissioner,
Palani Municipality,
Dindigul District.

3. The Joint Commissioner,
Sri Arulmighu Thandayuthapani Thirukkivil,
Palani,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the respondents to consider the petitioner's representation dated 08.06.2018 and direct the second respondent to provide Street Vendors Identity Card to the petitioners and direct the respondents to provide alternative place for doing their street vending business near Palani Tourist bus stand or around the Giri Veethi, Palani.

For Petitioners : Mr.M.R.Sreenivasan

For R-1 : Mr.A.Muthukaruppan
Additional Government Pleader

For R-2 : Mr.G.Arjunan

For R-3 : Mr.VR.Shanmughanathan
Special Government Pleader

**ORDER**

The prayer in the present writ petition is for a direction to direct the respondents to consider the petitioner's representation dated 08.06.2018 and direct the second respondent to provide Street Vendors Identity Card to the petitioners and direct the respondents to provide alternative place for doing their street vending business near Palani Tourist bus stand or around the Giri Veethi, Palani.

2. When the matter is taken up for final hearing today, the learned Special Government Pleader appearing for the third respondent would submit that there is a prohibitory order passed by the Hon'ble Division Bench of this Court not to grant license to seek vending in and around Giri Veethi at Palani. He would draw the attention of this Court to the order of the Division Bench passed in W.P(MD).Nos.1341 of 2017 and 191 of 2016, dated 16.08.2017. The relevant paragraph Nos.3, 4 and 5 are extracted hereunder:-

"3. It is the case of the writ petitioners that the said mountain path was handed over in favour of the Devasthanam on condition that no commercial activity would be permitted. It is not open to the Devasthanam or the Palani Municipality to grant permission in favour of any person for conducting commercial activities. The writ petitioners grievance is that the Devasthanam is granting licences for carrying on such commercial activities in the mountain paths.

4. The learned Senior Counsel appearing for the second respondent firmly denied the said allegations. He submitted that W.P.(MD)No.1341 of 2017, was filed by the Devasthanam for forbearing the District Administration as well as the Local Municipality from issuing any license / Identity Cards for street vendors so as to enable them to vend or carry on business in Giriveethi. When this Court in W.P.(MD).Nos.17889, 18047 to 18049 and 19392 to 19394 of 2013, dated 10.02.2014 prohibited commercial activity in the mountain path, it is not open to any authority be it a Devasthanam or the Government or the District Administration or the local body to grant permission for carrying any commercial activity in the Giriveethi.

5. The learned Counsel appearing for the Devasthanam strenuously submitted that whatever commercial activity is licensed by Devasthanam is only in respect of its patta lands and not in the Giri Veethi. This submission is on record. This Court specifically restrain the respondents in W.P.(MD)No.1341 of 2017 from issuing



license / Identity Cards for street vendors in respect of the Giriveethi at Palani. Since object of both the writ petitioner appears to be one and the same, this Court has no hesitation in allowing both the writ petitions. No costs. Consequently, connected miscellaneous petition is closed."

3. Therefore, the learned Special Government Pleader appearing for the third respondent would submit that in view of the clear prohibition of the order passed by the learned Division Bench, the prayer as sought for in the writ petition, is not maintainable.

4. This Court is in agreement with the submission made on behalf of the learned Special Government Pleader appearing for the third respondent and therefore, this Court finds that the prayer in the present writ petition is not maintainable, in view of the order passed by the Hon'ble Division Bench of this Court as mentioned above.

5. The learned counsel appearing for the petitioner would draw the attention of the Court the paragraph No.9 of the counter affidavit filed on behalf of the second respondent, which reads as follows:-

"I further state that the writ petitioners mentioning places of street vending zone would not be provided by the second respondent Municipality because that the petition mentioning places was purposely allocated for Municipality public utility service places ie., Mudi Kottagai, Public Toilet etc., and also main roads towards to the Palani Temple Street, which this places all highly roaming pillgrams and general public places. The respondent municipality is now ready to allocate some of street vending zones. Such as (1) R.F.Road, (2) Thiruvalluvar Road, (3) Gandhi Market, (4) Adivaram Itteri Road, (5) Arul Jothi Veethi this places are very fit for steet vending zone. The petitioner may approached second respondent Municipality for their consideration."

6. The learned counsel further would submit that the second respondent Municipality may be directed to consider the petitioners' claim and grant license to these petitioners, in case of grant of such license in the notified place as found in the aforesaid paragraph.

7. Considering the submission made on behalf of the petitioner, it is open to the petitioner to submit a comprehensive representation to the second respondent/Municipality for grant of license of the street vending zone as mentioned in paragraph 9 of the counter. On such representation being submitted by the petitioners, the second respondent/Municipality



is directed to consider the claim of the petitioners and pass appropriate order within a period of eight weeks, thereafter.

8. With these directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-IV)

To:

1. The District Collector,
Dindigul District,
Dindigul.
2. The Joint Commissioner,
Sri Arulmighu Thandayuthapani Thirukkivil,
Palani,
Dindigul District.

+1cc to Mr.M.R.Sreenivasan, Advocate Sr.No.79562
+1cc to Mr.G.Arjunan, Advocate Sr.No.79398
+1cc to Spl.Government Pleader Sr.No.79653

RMK

VB/RSK/SAR4/10.10.2018/4P/6C

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