

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.06.2019

Coram

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21735 of 2009
and
M.P.Nos.1 and 2 of 2009

Susila Parekh

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Petitioner

vs.

1.The Commissioner,
Corporation of Chennai,
Chennai.

2.The Assistant Commissioner (Zone X),
Corporation of Chennai.

3.The Assistant Health Officer (Zone X),
Corporation of Chennai,
Chennai.

...

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus, calling for the entire records leading to issue of notice dated 24.09.2009 issued by the 2nd respondent herein and quash the same and direct the 1st and 2nd respondent herein to permit the petitioner to continue to use the premises at No.11, Kamarajar Salai, Marina Beach, Chennai - 600 004 as Eating House.

For Petitioner : Mr.L.Mouli

For Respondents : Mr.Arunmozhi
Standing Counsel
for Chennai Corporation

O R D E R

The petitioner has filed this writ petition, challenging the notice dated 24.09.2009 of the second respondent and consequently, direct the respondents 1 and 2 to permit the petitioner to continue to use the premises, at No.11, Kamarajar Salai, Marina Beach, Chennai - 600 004, as Eating House.

2. The case of the petitioner is that the petitioner is carrying out eating house business under the name and style of M/s.Sagar Vihar, at No.11, Kamarajar Salai, Marina Beach, Chennai, for the past 27 years, without any complaints or adverse report from the public or the respondents. Further, the building, in which, the petitioner running the said eating house trade belongs to Public Works Department and the petitioner had entered into a Lease Agreement dated 17.03.1984 with the Public Works Department to use the said building for running the Restaurant. However, the License had been granted by the first respondent in the year 1982, as per Section 279 of the Chennai City Municipal Corporation Act, 1919, in favour of the petitioner to run the Restaurant and the same has been renewed every year and the current license period was valid till 31.03.2010.

3. While so, when the petitioner went away to his native place, in his absence the Manager was taking care of the Restaurant. In that period, the third respondent had issued a notice dated 05.09.2009 and arrived at a conclusion that the Manager has conducted the Restaurant without any license. However, the fact remains that the petitioner had already possessed license from the first respondent and it was renewed periodically. Challenging the same, the present Writ Petition is filed.

4. The learned counsel for the petitioner would submit that though the notice was issued in the year 2009 and thereafter, the respondent Corporation has not extended the license in the future period and hence, this Court may permit the petitioner to submit a fresh application for license.

5. The learned Standing Counsel for the Chennai Corporation would submit that, if any such application being filed, the same shall be considered, on merits and in accordance with law.

6. It is seen that the license has been granted to the petitioner in the year 1982 and it was extended periodically. However, the notice was issued against the petitioner. Admittedly, the license was not extended after filing of the Writ Petition and hence, this Court is inclined to grant liberty to the petitioner to file a renewal application before the respondents. If any such renewal application being filed, the respondents are directed to consider such renewal application and pass appropriate orders, on merits and in accordance with law. The respondent Corporation is also entitled to collect the license fee and the provisional tax from the petitioner, right from the year 2009 onwards.

7. With the above directions, this Writ Petition is

disposed of. Consequently, connected Miscellaneous Petitions are closed. However, there is no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sri

To

1.The Commissioner,
Corporation of Chennai,
Chennai.

2.The Assistant Commissioner (Zone X),
Corporation of Chennai.

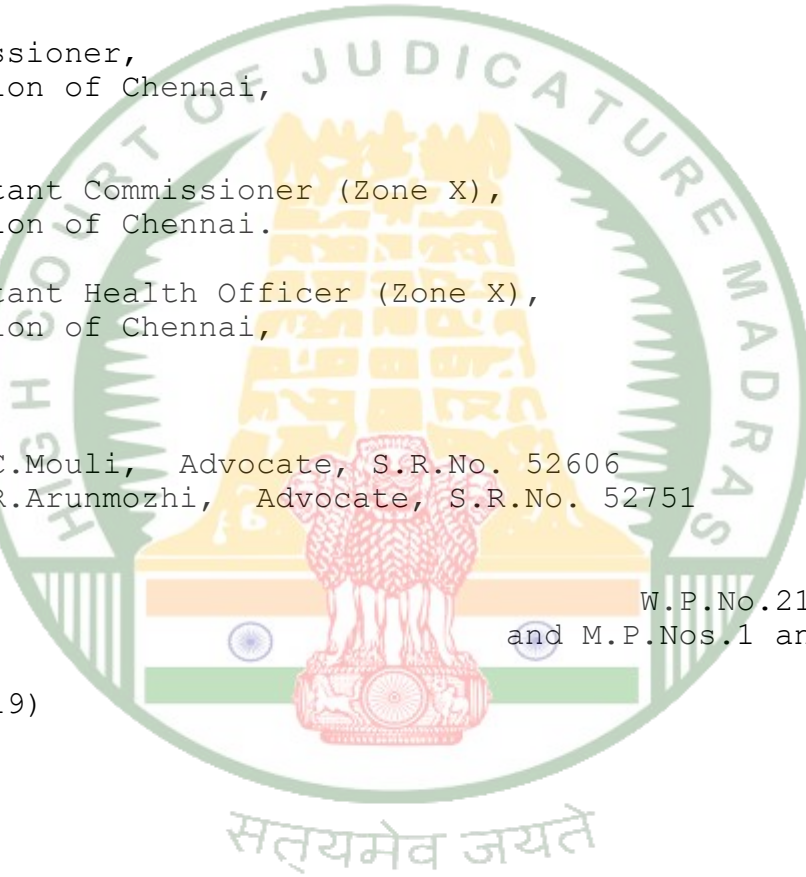
3.The Assistant Health Officer (Zone X),
Corporation of Chennai,
Chennai.

+1cc to Mr.C.Mouli, Advocate, S.R.No. 52606

+1cc to Mr.R.Arunmozhi, Advocate, S.R.No. 52751

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SPD(CO)
GN(22/07/2019)



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