

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2019

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.14681 of 2016

S.Gandhi

...

Petitioner

--Vs--

1. The Government of Tamil Nadu,
Rep.by its Secretary, Health and Family
Welfare Department, Fort.St.George, Chennai-9.
2. The Director,
Directorate of Medical Education,
162, EVR Periyar Salai, Kilpauk,
Chennai - 600 10.
3. The Executive Engineer,
Public Works Department,
Building Maintenance - Medical Works,
Chepauk, Chennai - 5.
4. The Dean,
Government Medical College and Hospital,
Thiruvannamalai,
Thiruvannamalai District. ...

Respondents

Prayer:

Writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records connected with the proceedings of G.O.Ms.No.93, dated 25.02.2015 issued by the 1st respondent and its consequential order passed by the 4th respondent in Na.Ka.No.2049/TV/2015, dated 30.09.2015 and quash the same consequently direct the respondents to allot a suitable place at the 4th respondents Thiruvannamalai Government Medical College and Hospital premises to the petitioner to run a kiosk (to vend tea and coffee)

(Prayer amended as per order 30.01.2018 by KRCBJ in WMP.1903 of 2018 in W.P.No.14681 of 2016)

For Petitioner : Mr.A.E.Ravichandran
for Mr.K.Thilageswaran

For Respondents : Mr.N.Inbanathan
Additional Government Pleader

O R D E R

The petitioner has filed the above Writ Petition seeking to issue a Writ of certiorarified mandamus calling for the records connected with the proceedings of G.O.Ms.No.93, dated 25.02.2015 issued by the first respondent and the consequential order passed by the fourth respondent in Na.Ka.No.2049/TV/2015 dated 30.09.2015 and quash the same and consequently direct the respondents to allot a suitable place in the premises of the Government Medical College and Hospital, Thiruvannamalai to the petitioner to run a kiosk (to vend tea and coffee).

2. According to the petitioner, he is one of the members of a registered association viz., National Association of Educated Self Employed Youth, in short NAESEY. In order to promote the self employment schemes for the benefit of unemployed youths, the said Association established NAESEY SNACK KIOSKS for vending snacks, Tea, Coffee etc at the premises of Government Hospitals, Government Offices etc. The petitioner was allotted a Kiosk in the year 1979 at Thiruvannamalai Medical College and Hospital, Thiruvannamalai and has been running the same till 2014 without any remarks. The said Kiosk was the sole livelihood of the petitioner and his family members and the petitioner had been paying the rent and electricity charges without any default. It is stated that the said hospital was shifted to a new building. However, the petitioner was not allotted a shop for running his business. Despite several representations were made and also a mandamus was issued by this Court, no order was passed. As per the order of this Court, the petitioner gave a representation to the respondents 3 and 4, which was rejected by the fourth respondent citing G.O.Ms.No.93 dated 25.03.2015 on the ground that any shop or Kiosk has to be approved by the Director of the Medical Education and the allotment would be done only based on tender. So far as the Thiruvannamalai Government Medical College and Hospital is concerned, no tender was called for for running the Kiosk.

3. While so, the fourth respondent herein seems to have allotted a shop on 18.03.2016 in favour of one R.G.Bhuvaneshwar, who is physically disabled, to run a canteen nearby the hospital entrance. The Principal of the Vellore Government Medical College and Hospital had also permitted one Gnanaprakasam for

running snacks and coffee shop by granting licence for a period of three years from 01.07.2015 to 30.06.2018. Apparently, the said order was also passed after G.O.Ms.No.93 dated 25.03.2015 was passed. From the above conduct of the respondents, it is very clear that said G.O. is only on the paper and the same has not been followed by the Officials, granting licence to all and sundry without following the conditions prescribed in the said G.O. Only so far as the petitioner is concerned, he has not been allotted the shop citing the said G.O. It is also not stated whether the petitioner was disqualified from running the snack bar. While so, the respondents have adopted a different method for rejecting the claim of the petitioner and the orders were passed in favour of R.G.Bhuvaneshwar and Gnanaprakasam, when already G.O.Ms.No.93 is in existence.

4. In the above circumstances, the impugned order is set aside and accordingly, the Writ Petition is allowed. The petitioner is directed to approach the fourth respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the fourth respondent is directed to consider and pass appropriate orders on merits and in accordance with law, after issuing notice to the petitioner and the persons interested in this regard and also affording them an opportunity of personal hearing, within a period of four weeks thereafter. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Secretary,
Government of Tamil Nadu,
Health and Family Welfare Department,
Fort.St.George, Chennai-9.
2. The Director,
Directorate of Medical Education,
162, EVR Periyar Salai, Kilpauk, Chennai - 600 10.
3. The Executive Engineer,
Public Works Department,
Building Maintenance - Medical Works,
Chepauk, Chennai - 5.

4. The Dean,
Government Medical College and Hospital,
Thiruvannamalai,
Thiruvannamalai District.

+3cc to Mr.K.Thilageswaran, Advocate, S.R.No.19732

+1cc to the Government Pleader, S.R.No.21441

W.P.No.14681 of 2016 in
W.M.P.No.12849 of 2016

SSV(CO)
CS/04/04/2019



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