

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6.2.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.10448 of 2018

Chennai Managar Desiya
Siru Viyabarigal Sangam
Rep by its Treasurer
R. Baskaran
Reg. No. 47/85 No.9 NSC Bose
Road Chennai 600 108 ... Petitioner

Vs

1 The Commissioner
Corporation of Chennai Rippon Buildings
Chennai 600 003

2 The Regional Deputy Commissioner (North)
Greater Chennai Corporation
New No. 105 Old No. 47
Basin Bridge Road Basin Bridge
Chennai 600 079

3 The Asst. Commissioner
Zone V Corporation of Chennai
105 Basin Bridge Road
Chennai 600 079

4 The Joint Commissioner (North)
Office of Commissioner of Police
Vepery Chennai 600 007

5 The Chairman
Implementation Committee
No.7/6 3rd Cross Street
R.A.Puram Chennai 600 028

... Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India seeking issuance of a writ of mandamus

directing respondents 1 to 3 to earmark/allot places at Pallavan Salai for the members of the petitioner's Sangam ranging from S.Nos.98 to 120 and also for a direction to conduct draw of lots and issue identity cards to the members ranging from S.Nos.115 to 120 as per the directives of the 5th respondent dated 8.3.2018.

For petitioner : Mr.R.Syed Mustafa

For RR1 to 3 : Mr.K.Soundararajan

For RR4 and 5 : Mr.J.Pothiraj,
Special Government Pleader

ORDER

(Order of the court was made by Dr.VINEET KOTHARI, J.)

Petitioner, Chennai Managar Desiya Siru Viyabarigal Sangam, a Registered Society, represented by its Treasurer Mr.R.Baskaran has approached this court by way of the present PIL writ petition claiming therein Respondents 1 to 3 viz., the Corporation of Chennai and authorities thereof may earmark/allot the place for vending at 'Pallavan Salai' for the members of the petitioner Association from Serial Nos.98 to 120 and also to conduct a draw of lots and issue identity cards to the members from S.Nos.115 to 120.

2. Learned counsel appearing for the petitioner, Mr.Syed Mustafa has drawn our attention to the earlier order passed by a co-ordinate Bench of this court on 11.6.2015, in another PIL filed by the same petitioner, Chennai Managar Desiya Siru Viyabarigal Sangam, in W.P.No.9452 of 2015 in which, quoting the additional counter affidavit dated 20.4.2015, the Co-ordinate Bench of this court had disposed of the petition. Para 2 of the said order is quoted hereinafter for ready reference:-

"2. Pursuant to the notice issued by this Court, the second respondent Corporation has filed the additional counter affidavit dated 20.04.2015, stating as under:

"4. I further submit that the list of 120 persons have been forwarded to the Chairman, Hawking Committee to consider for allotment. Accordingly lots have been drawn on 27.03.2007 and 30.05.2007 (emphasis supplied) by the Hawking Committee and the hawkers numbering 114 members only attended the lots drawn

(emphasis supplied) by documentary evidence of identity and all the 114 members have been allotted (emphasis supplied).

5. I submit that balance of six persons have not appeared for the lots drawn on 27.03.2007 and 30.05.2007 and have not produced the documents evidence to prove their identity.

6. I submit that the allotted 114 members are doing their business in the allotted space in N.S.C. Bose Road. I further submit that the respondents are taking frequent action to remove the encroachments made by the parking vehicles."

3. The court at that point of time, found that the case of the 6 persons for such allotment could not be considered on account of non-submission of the relevant documents by them.

4. The learned counsel appearing for the petitioner also brought to our notice the subsequent communication of Respondent No.5, dated 8.3.2018 (page 44 of the typed set of papers) in which it was noted by Respondent No.5, Implementation Committee, Chennai that in pursuant to the court order, a representation was given by the Association which was referred by Respondent No.5 in its letter dated 26.4.2016 and 4.4.2017, but, even after lapse of two years, the lots in respect of 6 persons, have not been drawn and similarly, for alternative places to 17 persons in 'Pallavan Salai' and for which the Zonal Officer-V called for 'No Objection' from the Joint Commissioner, Traffic (North) on 27.6.2015, but there was no progress in the matter thereafter and therefore, the learned counsel for the petitioner urged before us that the said Joint Commissioner, Traffic (North) may be directed to give his 'No Objection' in this regard.

5. However, the learned counsel appearing for the respondent-State of Tamil Nadu has filed an Affidavit of the 4th respondent Joint Commissioner (North) in this court on 23.1.2019 to the effect that no such 'No Objection' can be given in favour of those six persons. In the Status Report of Respondent No.4, Joint Commissioner (North) dated 5.2.2019, filed in the court today, it is stated in para 2 that it is not possible for the 4th respondent Joint Commissioner (North) to issue 'No Objection' to the third respondent, Corporation of Chennai Zone V, to permit street vending along the 'Pallavan Salai' because the said road is an arterial road having heavy traffic connecting the Central Railway Station and Mount Road. Thus, Respondent No.4 has taken a categorical stand that no such

'No Objection' can be given to members of the petitioner-Association including the six referred to above.

6. The learned counsel for the Municipal Corporation has since brought to our notice that a 'Vending Committee' has now been constituted under Section 22 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 in short 'Street Vendors Act' and only such Vending Committee can now consider any such representation/application made for allotment of shop or place for carrying on a business.

7. Having heard the learned counsels appearing for the parties and upon perusal of the materials placed before us, we are of the considered opinion that we cannot direct the respondent-Corporation or the authorities of the State to issue any such 'no objection' in favour of Chennai Corporation to permit the members of the petitioner Association along the 'Pallavan Salai' or any other place since a Vending Committee under section 22 of the Street Vendors Act is now duly constituted and it is for that Vending Committee alone to consider any such application or representation filed by the desiring applicants. Therefore, we close this petition with a liberty to the concerned members of the petitioner Association to move their appropriate application or representation before the said Vending Committee and we expect that Vending Committee will decide their representations or applications in accordance with law.

The writ petition is, accordingly, disposed of. No order as to costs.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

ssk.

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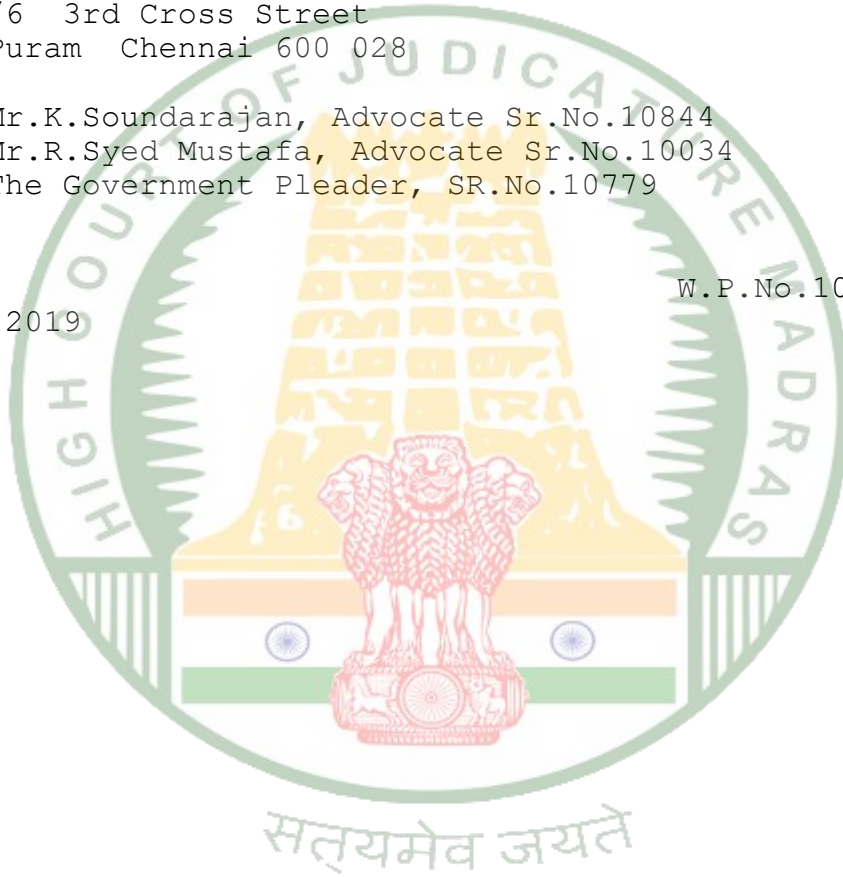
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+1 cc to Mr.K.Soundarajan, Advocate Sr.No.10844
+1 cc to Mr.R.Syed Mustafa, Advocate Sr.No.10034
+1 cc to The Government Pleader, SR.No.10779

CSL/22.02.2019

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