

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.04.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.25599 of 2016

and

W.M.P.Nos.21964 & 34343 of 2016

M.Vijayan

.. Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Tiruppur,
Tiruppur District.

2.The Divisional Engineer,
High Ways Department,
Construction and Operation,
Tiruppur,
Tiruppur District.

3.The Assistant Divisional Engineer,
High Ways Department,
Construction and Operation,
Tiruppur,
Tiruppur District.

4.The Assistant Engineer,
High Ways Department,
Construction and Operation,
Tiruppur (South),
Tiruppur District.

सत्यमेव जयते

.. Respondents

PRAYER : Writ Petitions filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the fourth respondent in Memo No.07/2016/Oou.Po. Dated 12.07.2016 quash the same and consequently direct the respondents 1 to 4 to permit the petitioner to run the teashop.

For Petitioner : Mr.C.Venkatesan

For Respondents : Mr.N.Inbanathan
Additional Government Pleader

O R D E R

The writ petition has been filed challenging the order passed by the fourth respondent in Memo No.07/2016/Oou.Po. dated

12.07.2016 and consequently direct the respondents 1 to 4 to permit the petitioner to run the teashop.

2. The petitioner, who sustained injury in his right leg knee in an accident in the year 2007, made him handicapped and desired to establish a teashop. Accordingly, the teashop was located on the Avinashi - Tiruppur - Palladam-Pollachi, Cochin (via) Meenkarai Road. He was accorded permission for erecting the temporary tea stall (Kiosk) based on the norms followed by the Highways Department subject to certain conditions as mentioned in paragraph 4 of the counter affidavit. The Commissioner of Police, Tiruppur has also given No Objection Certificate in respect of the territorial limit of the fourth respondent. The second respondent also had given the license to run the teashop without any disturbance to the public. While so, a show cause notice was issued by the second respondent and he refused to renew the license for running the teashop. The teashop is only a temporary kiosk and being a handicapped person he cannot go for any other work and the teashop was the only source of income.

3. By virtue of the interim order, the petitioner has been continuing his business. The interim order also had directed him to sell the food items, which should be in conformity with FSSAI norms.

4. Heard the learned counsel appearing on both sides.

5. A perusal of the typed set of papers filed by the petitioner, would indicate that in the year 2015 the Police Commissioner, Tiruppur had given him No Objection Certificate for running the tea stall on the Avinashi - Tiruppur - Palladam - Pollachi, Cochin (via) Meenkarai road and he is not causing any disturbance either to the public or to the road traffic. Similarly, on 19.01.2016, once again the Commissioner-Corporation has issued No Objection Certificate. While so, the impugned order was passed based on a report from the Road Accident Management Data System to that effect that in the said location there are lot of road accidents happened and the tea stall is causing hindrance to general public. The Road Accident Management Data System maintained by the Police Department had stated that five numbers of fatal accidents have occurred in the year 2015-16 at the location due to traffic congestion caused by the customers going to the petitioner's Tea stall. It is surprising that contrary to the No Objection issued by the very same Police department, which said that the location of the said place is not causing any hindrance either to the public or to the traffic, now it is stated it causes disturbance to traffic. The impugned order itself specifically states that there are several applications from various people to the first respondent for running the teashops. While there is already a Aavin Milk

Parlour, which has been established on the same road, the third respondent had refused the license to the petitioner alone and passed the impugned order.

6. Admittedly, the petitioner, who is an handicapped with injury in knee, is eking out his livelihood by running the teashop to live in a decent manner. It is for the respondents to provide him an employment. He is the person, who is planning to have a self employment, which should be appreciated and encouraged, instead, he should not be made to run from pillar to post for even getting his license. Therefore, the impugned order dated 12.07.2016 is set aside and the respondents are directed to renew the license, which had already expired and permit the petitioner to run the teashop in the same place.

7. The petitioner is also directed to comply with the FSSAI norms in selling food items to the public. If the food items sold are not in compliance with the said norms, it is open to the respondents to initiate action in a manner known to law. The petitioner also has to comply with the other license conditions.

8. Accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

To

1.The District Collector,
Office of the District Collector,
Tiruppur, Tiruppur District.

2.The Divisional Engineer,
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Construction and Operation,
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Tiruppur, Tiruppur District.

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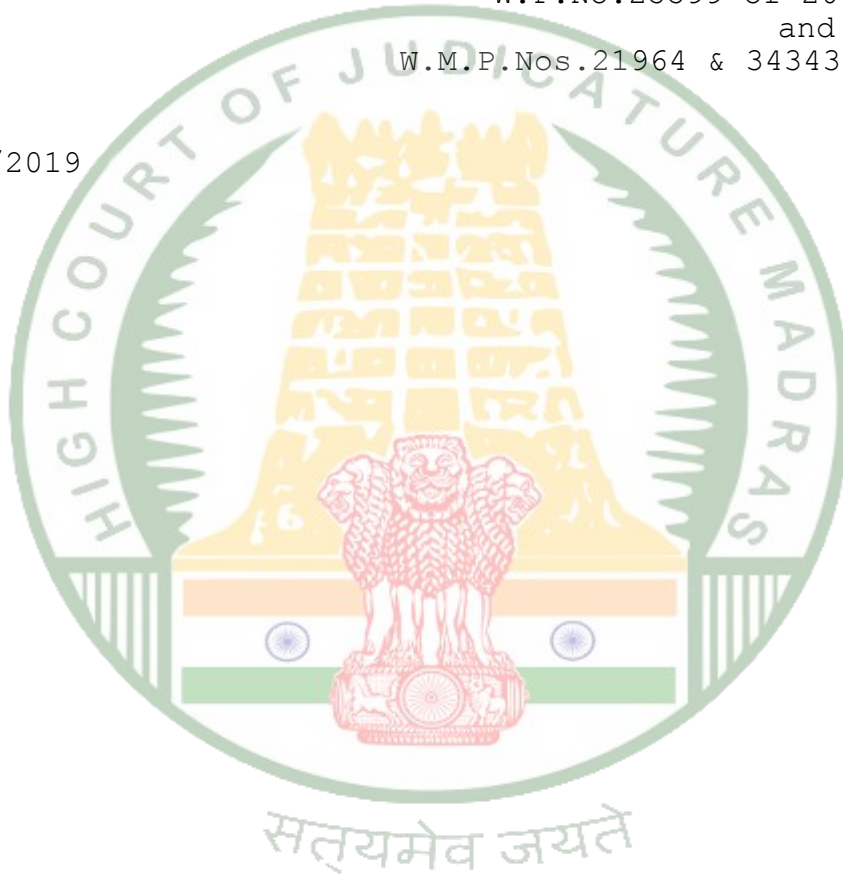
+1CC to Govt. Adv. Vide SR.NO.38246

+1CC to M/S.C.VENKATESAN Advocate Vide SR.NO.37350

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SSI[CO]
MK:08/06/2019



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