

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 27.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE DR.G.JAYACHANDRAN

Writ Petition No.11422 of 2019

& W.M.P.Nos.11700 & 11701 of 2019

Shankaralingam

...Petitioner

Vs

- 1.The Special Commissioner,
For Handicapped,
Office of the State Commissioner of Disabled,
No.15/1, Model School Road,
Thousand lights, Chennai-600 006.
- 2.The Chief Executive Officer,
Office of the Cantonment Board,
Parakimalai,
St.Thomas Mount,
Chennai-16.
- 3.The Superintendent of Police,
Kancheepuram District,
Kancheepuram.
- 4.The Inspector of Police,
Pallavaram Police Station,
Chennai-600 016.

... Respondents

Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus to call for the records of the 2nd respondent in proceedings STM/REV/0366 dated 19.02.2019 quash the same and consequently direct the office of the 2nd respondent to constitute Town Vending Committee as contemplated under Section 22 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and consequently grant certificate of vending to the petitioner to run the bunk shop selling tea, coffee, snacks. (Measurement about 8X6) in the line of GST Road near Tirisulam main bus stop, Chennai-43 under Section 4 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and till such time not to disturb with the running of the petitioner's

bunk shop in the line of GST Road near Tirisulam main bus stop, Chennai-43.

For petitioner : Mr.L.P.Maurya
For R1, R3 & R4 : Mr.D.Suriyanarayanan
Additional Government Pleader
For R2 : Mr.Chevanan Mohan
for M/S.King & Partridge

ORDER

Heard the learned counsel for the petitioner and the learned counsel for the respondents

2. It is a classic case, where the sympathy of this Court on differently abled person grossly abused. The petitioner herein who claims himself as a differently abled person has approached this Court by filing a writ petition in W.P.No.30323 of 2018, seeking Mandamus directing the Director, Cantonment Board, Parangimalai to dispose of his representation dated 20.04.2018 for grant of license to continue to run the petty shop and for further direction forbearing the Police officials, Pallavaram, from in any manner interfering with his business of selling tea, coffee, snacks and Fast food put up by him on the line of GST road by the side of Tirisulam main bus stop-600042. After filing this writ petition even without any order of this Court, the petitioner has put up a bunk shop opposite to the Airport and when this was brought to the notice, this Court has passed an order on 28.01.2019.

"3.Earlier notice was ordered to the respondents. Today, Mr.C.Mohan, the learned standing counsel for the 3rd respondent, on instructions, submitted that the application of the petitioner for grant of license in the prescribed form was received by the 3rd respondent only on 24.01.2019 and he would consider the same on merits and pass appropriate orders in accordance with law within a reasonable time.

4.Considering the limited relief sought for in the writ petition and the submission made by the learned counsel for the 3rd respondent, this Court, without going into the merits of the case, directs the 3rd respondent to consider the application of the petitioner dated 24.01.2019 and pass suitable orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. No costs."

3. Thereafter, the petitioner herein has made a request to the Chief Executive Officer, office of the Cantonment Board seeking trade license. The said request has been declined by the third respondent citing that the request of the petitioner through his application dated 24.01.2019 seeking trade license cannot be processed due to security reasons in the specified location as it is situated exactly opposite to Airport. Further, the petitioner was also suggested to change his location and submit a fresh application, upon which, the authority will consider subject to terms and conditions and provide trade license. This communication dated 19.02.2018 is under challenge in this writ petition.

4. The learned counsel appearing for the petitioner would submit that the petitioner herein is a street vendor under the definition of Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and therefore, under Section 12 of the said Act. Every street vendor shall have a right to carry on the business of street vending activities in accordance with the terms and conditions mentioned in the certificate of Vending. As far as Section 3 of the said Act is concerned, the Town Vending Committee shall, within such period and in such manner as may be specified in the scheme, conduct a survey of all existing street vendors, within the area under its jurisdiction, and subsequent survey shall be carried out at least once in every five years. The Town Vending Committee shall ensure that all existing street vendors, identified in the survey, are accommodated in the vending zones subject to a norm confirming to certain conditions. So far as the 2nd respondent Cantonment is concerned, they have not constituted any Town Vending Committee as contemplated under the Act. Section 22 of the said Act clearly mandates the appropriate Government to frame rules in this regard and constitute the Town Vending Committee.

5. In so far as the location, in which, the petitioner seeks permission, the second respondent has not so far constituted the Town Vending Committee as per Section 22 and no survey has been conducted as per Section 3 of the said Act. While so, the protection under Section 12 of the Act is available to the petitioner and therefore he cannot be deprived of the request made by him citing security reason. Furthermore, it is contended by the learned counsel for the petitioner that the impugned order is not passed by the competent authority and the second respondent has passed the impugned order, is not the competent authority to issue order under the Street Vendor Act.

6. The learned counsel for the second respondent would submit that the petitioner does not fall under the definition and meaning of vendor as mentioned in the Street Vendor Act and he is not entitled to seek umberage under the said Act.

7. According to the learned counsel for the respondent even according to the petitioner's letter dated 20.04.2018 addressed to the second respondent, he has requested the second respondent to permit him to put up a shop near Tirisulam theater, he never been a street vendor at any point of time before 20.04.2018, when he made a request to the second respondent. Thereafter, he approached this Court with false information seeking direction which was also disposed of by this Court on 28.01.2019 and thereafter, he made a request for trade license, which has been considered and rejected due to security reasons and also an option was given to the petitioner herein that if he is really interested to have a shop, his request will be considered for some other different locations where vending is permissible.

8. This Court finds no arbitrary or illegality in the order passed by the second respondent. When the petitioner does not fall within the scope of Street Vendors Act, whether the second respondent Cantonment has so far constituted Town Vending Committee or not is immaterial. It is the prime duty of the local body to ensure free flow of traffic, hygienic establishment and furthermore, the security to the general public.

9. The intention of the petitioner herein and his conduct causes grave suspicious about his genuineness. In his application he has made a innocuous request that he wants to establish a shop near a theater but from the record it appears it is a very sensitive area just opposite to Airport. Further, without any order of this Court, citing the writ number he has put up a push cart opposite to the Airport and had commence his business. The photograph shown by the second respondent clearly indicates that even without waiting for the order of this Court the petitioner after filing the writ petition before this Court in the year 2018 had commenced his business.

10. The second respondent has after considering the petitioner's request to grant trade license, had intimated him that the place he seek permission to run shop is sensitive place so that if he can change the location and seeks for license it will be favorably considered. He has approached this Court challenging that order instead of changing the location to commence the

trade. This clearly shows that the petitioner is very keen to put up some structure opposite to Airport, which is not permissible for security reasons. This conduct of the petitioner is deprecated and token cost of Rs.1,000/- is imposed payable to the second respondent.

11. In the result, this writ petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Ccc)

//True Copy//

Sub Assistant Registrar

rpl

To

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Kancheepuram.

4.The Inspector of Police,
Pallavaram Police Station,
Chennai-600 016.

+1cc to Mr. L.P.Maurya, Advocate SR.No. 53920

+1cc to M/S.King & Partridge , Advocate SR.No. 53742

+1 cc to Government Pleader Sr.No. 54478

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A.SK(30/07/2019)