

**W.M.P. No.17660 of 2019 in W.P. No.6913 of 2019**

**S.MANIKUMAR, J.**  
**and**  
**SUBRAMONIUM PRASAD, J.**

(Order of the court was made by **S.MANIKUMAR, J.**)

Chennai Hoardings Association, represented by its President Mr.K.C.Chandrasekaran, has filed W.P. Nos.6913 and 6918 of 2019. Pending disposal of the said writ petitions, petitioner has filed W.M.P. No.17660 of 2019 in W.P. No.6913 of 2018, for a direction to the respondents to receive applications for issuance of licence for erecting hoardings from the members of the petitioner association. Affidavit filed in support of the writ miscellaneous petition reads thus:

"1.The association is formed for securing legal as well as fundamental rights of small level entrepreneurs, who are in hoardings business. Due to rise unregulated hoardings inside the city by some miscreants have lead to his entire industry bear the consequences for it. Our Association has time and again strives to follow laws and rules enforced by the authorities and have always complied to the same. The present amendment which is brought forth by way of Act 40 of 2018 is directly affecting the livelihood of all the persons who depend on this industries.

2. The impugned legislation is paving way for unfair trade practice and monopoly in the trade making only few to benefit from the legislation. The Legislation does not give any opportunity for minor stake holders in the trade, whose livelihood depend on it. The impugned legislation is in contravention to Article 304(b) and it requires assent from the President of India before the bill is being introduced in State Legislature. The view taken here is not only in respect of the astronomical fee levied as licence fee and also in terms of the restriction broughtforth by way of definition to the term "Hoarding" in the Municipal Acts. Fortifying the above contention, it is pertinent to state that the state in their counter filed before the Madurai Bench has already admitted that omission of private places is purportedly a reasonable restrictions in the practice of the trade while it is actually a unfair restriction.

3. It is pertinent to state that W.P. No.(MD) 18345 of 2018 & batch challenging the same enactment, the learned Madurai Bench of this High Court has recorded a statement made by the State Government that pending disposal of the writ petitions, no action shall be taken against the existing private hoardings by its order dated 12.3.2019. I state that following the same this Hon'ble Court was pleased to follow the same order in the present writ petition in its order.

4. During the course of hearing the petitioner has filed additional typed set stating list of hoardings which are coming

under the Petitioner's Association. The Hon'ble Court in its order dated 12.3.2019 stated very clearly that the private hoardings business will not be harmed until the final disposal of the writ petitions. In spite of the same, the respondents are interfering in the smooth functioning of the petitioner's business. I state that various queries were raised by the respondent authorities and have submitted documents and the papers pertaining to the writ petition. I state that in spite of all our efforts and the court order, we are unable to proceed with our day to day business without respondents indulgence. I state that by virtue of the order, the petitioner's members have entered into contracts for providing service to their clients and now due to interference of the authorities has made it impossible for us to perform the contracts. I state that the petitioners are not only facing grave injury to their reputation and are also facing loss of income. Needless to add, the petitioners cannot afford to pay the damages for failing to perform the contracts, if claimed and the members are running out of resources to earn their income.

5. The petitioners are ready and willing to submit their application for issuance of licence but the respondent has been refusing to receive the applications since the date of the publication of G.O. Ms.16 of 2019 i.e. July 2017. I state that the petitioner and its members have been always willing to submit their application for the hoardings listed in their additional typed set but they have abruptly been refused

pointing the new amendment i.e. Act 40 of 2019 and G.O. Ms. No.16 of 2019 as a reason. I state that respondent authorities should not take benefit of the court order, when there is clear disobedience of the earlier order for timely disposal of the application for issuance of licence.

6. The members are completely aware that the fate of the applications are depending on the outcome of the present writ petition and we are willing to submit the application immediately for all the hoardings listed in our additional typed set. I state that we are advised a fair chance in this present writ petition and therefore, willing to submit the applications for issuance of licence. I state that our livelihoods are dependent on the outcome of the present writ petition and most of the members are sole breadwinners for their families and it is imminent that there should be protective order until the disposal of the writ petition for meeting their day to day need.

7. The petitioners have already submitted the list of hoardings, which they intend to submit application. The petitioner members have laid out all the cards on the table and it is just and necessary this court to take a sympathetic view of the petitioner's crisis. I state that the petitioner members have no other source of income and rely on the income derived from this business. I state that the present application is filed seeking for submission of our application for issuance of licence for the hoardings listed in our

additional typed set and the respondent will not be prejudiced in any way, if they receive the application for issuance of licence."

2. Mr.Akhil Akbar Ali, learned Government Advocate, appearing for the respondents, has no objection for the prayer being granted.

3. Taking note of the averments made in the supporting affidavit and placing on record the submission of both parties, application is ordered. The respondents are directed to receive the application for issuance of licence for erecting hoardings from the members of the petitioner, pending disposal of the writ petition.

(S.M.K., J) (S.P., J.)  
29.8.2019

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W.P. No.6913/2019

S. MANIKUMAR, J.  
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