

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.24132 of 2017

C.H.Vinobha Gandhi

... Petitioner

Vs.

1. Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 600 007.

2. The District Collector,
Singaravelar Maligai,
Rajaji Salai,
Chennai - 600 001.

3. The Commissioner,
Rippon Buildings,
Chennai - 600 003.

4. The Chief General Manager (Administration)
Daily Thanthi, EVK Sampath Road,
Vepery, Chennai - 600 007

... Respondents

[R4 impleaded as per order dated 18.09.2017 by CJ & MSJ in WP No.24132 of 2017]

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a Writ of Mandamus, directing the respondents to remove the mega digital TV placed in public traffic junction at Poonamalli High Road just opposite to the first respondent's office.

For Petitioner : Mr.C.H.Vinobha Gandhi Party in Person
NA

For Respondents: Mr.E.Manoharan (for R1 & R2)
Addl. Govt. Pleader

Mr.R.Arunmozhi (for R3)
Standing Counsel for Chennai Corpn.
Mr.V.Shanmugam (for R4)

O R D E R

(Order of this Court was made by S.Manikumar, J.)

Mr.C.H.Vinobha Gandhi, a practicing Advocate has filed the instant writ petition for a Writ of Mandamus, directing the respondents to remove the mega digital TV placed in public traffic junction at Poonamalli High Road just opposite to the first respondent's office viz., Commissioner of Police, Greater Chennai City, Chennai.

2. Supporting the prayer sought for, petitioner has stated as follows:

(i) Grievance of the petitioner is that Thanthi News TV Channel has erected a big size digital TV display facing, the traffic signal junction, wherein the channel is displaying continuous news articles, debates and other similar programs throughout the day in public. The place where the Digital TV is erected place is a busy traffic signal, wherein the office of the Commissioner of Police, Greater Chennai City, 1st respondent herein, and Egmore rail junction are located.

(ii) According to the petitioner the said act is in violation of traffic rules which would divert the attention of the drivers / riders while driving the vehicle. Therefore, on 10.05.2017 petitioner has sent an email communication to the Commissioner of Police, Greater Chennai City, Chennai, the 1st respondent herein pointing out the same and sought for suitable action. Subsequently, he sent another representation dated 12.05.2017 to the Commissioner of Police, Greater Chennai City, Chennai, the District Collector, Chennai and the Commissioner, Chennai Corporation, Chennai, respondents 1 to 3 respectively, praying for necessary action, and to remove the Mega Digital TV placed at the traffic signal junction located in front of the office of the Commissioner of Police, Greater Chennai City, Chennai, 1st respondent herein. Since the representation dated 12.05.2017, remained unanswered, petitioner has filed the instant writ petition for the abovesaid relief.

3. On notice, the Zonal officer, Zone-5, Greater Chennai Corporation has filed the counter affidavit dated 03.10.2017 and the same reads thus:

"i) Daily Thanthi, No.86, EVK Sampath Road, Vepery, Chennai-600 007 has applied for license for erecting the hoarding by means of LED display at their premises on 03.07.2017 to the Commissioner, Greater Chennai Corporation, Chennai.

ii) Said application was placed before the committee concerned for scrutiny under Single Window System along with

the remarks of the Assistant Commissioner, Traffic Police Department, Kilpauk. The Assistant Commissioner in his remarks stated as follows:

"The said LED display board is located in front of St. Andre Church, Egmore (i.e) the place of worship. The said LED display board is located only within 5 meters from Periyar EVR Salai & EVK Sampath Road Junction and the Chennai City Municipal Corporation licensing of hoarding and levy and collection of advertisement tax rules, 2003, 10(ii).

The said LED display board was already erected and functioning for the past 5 months in the said location and broadcasting the News items of Thanthi TV without the permission of the competent authority which is against the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 (Act 55 of 1992) and Chapter 12A of Chennai City Municipal Corporation Act, 1919. It has also been emphasized in Tamil Nadu Urban Local Bodies (Permission for erection of Digital Banners and Placards) Rules 2011. It was erected in the South East Corner facing the outgoing side of EVR Salai. As per Tamil Nadu Panchayat Act 1994, Rule 131-A (a)(i) No person shall erect any hoarding (other than traffic sign and road sign) visible to the traffic on the road and which is hazardous and disturbance to safe traffic movement so as to adversely affect free and safe flow of traffic. This LED display is diverting the attention of the motorists crossing this junction and also it will cause accidents. In the above circumstances and considering the safety of the public and also for ensuring free flow of traffic, the issue of license for the above LED display board is NOT RECOMMENDED".

iii) Based on the above remarks furnished by the Assistant Commissioner, application for issuance of license was rejected vide proceeding No.Va.Thu.Na.ka.No.G4/5222/2017 dated 26.07.2017 and Daily Thanthi was informed to file an appeal if have any objection, on the rejection under Section 11 within 30 days from the date of receipt of the order.

iv) Executive Engineer, Zone-V has sent a communication on 08.09.2017 to the Chief General Manager, Daily Thanthi informing him to remove the advertisement board within 48 hours from 08.09.2017, failing which Corporation would remove and that the cost will be claimed from them, since their application for license has been rejected.

v) When the instant writ petition came up for hearing on 18.09.2017, this Court ordered as follows:

"10. However, the Daily Thanthi has not been impleaded as respondent. Therefore, the Chief General Manager (Administration), Daily Thanthi, EVK Sampath Road, Vepery, Chennai - 600 007, is impleaded as the fourth respondent. Memo of parties be amended accordingly. Notice be issued to the impleaded fourth respondent returnable by 22.09.2017.

11. It is made clear that it will be open to the respondent authorities to proceed in accordance with law."

vi) Zonal officer, Zone-5, Greater Chennai Corporation, has further submitted that a further communication vide Z.O.V./AEE/U-14C.No./4028/2017 dated 18.09.2017 was sent to the Chief General Manager, Daily Thanthi, intimating him to remove LED display hoarding without further notice. He further submitted that on receipt of the notice they shutdown the operation / running of LED display on 18.09.2017 and as on date, LED display is not functional.

vii) Daily Thanthi was informed to remove the non functional LED display from the site and they had replied that since it is of electronically controlled monitor and not like other hoarding's iron structure, requested more time to remove.

4. Heard the learned counsel for the respondents and perused the materials available on record.

5. On the basis of the instructions from Inspector of Police, G1 Vepery Traffic Police Station, Vepery, Chennai, Mr.E.Manoharan, learned Additional Government Pleader submitted that the Mega digital TV placed in the public traffic congestion at Poonamallee High Road, is not functioning for nearly one year.

6. Mr.V.Shanmugam, learned counsel appearing for the Chief General Manager (Administration), Daily Thanthi, EVK Sampath Road, Vepery, Chennai, respondent No.4, impleaded as per the order dated 18.09.2017 in WP No.24132 of 2017, acknowledges the said submission.

7. That apart, Mr.V.Shanmugam, learned counsel for the 4th respondent acknowledges that licence sought for to locate the LED display board has been rejected by the Commissioner of Chennai, vide proceedings No.Va.Thu.Na.ka.No.G4/5222/2017 dated 26.07.2017.

8. Inasmuch as the request for licence had already been rejected, with a direction to remove and that the LED display

board is also not operational for one year, 4th respondent has to remove the abovesaid Digital LED Television. It is always open to the 4th respondent to take appropriate remedy against the order dated 26.07.2017, as the case may be.

9. In view of the above, the Chief General Manager (Administration), Daily Thanthi, EVK Sampath Road, Vepery, Chennai, respondent No.4, is directed to remove the Mega Digital LED TV, forthwith. Writ petition is disposed of. No Costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. Commissioner of Police,
Greater Chennai City,
Vepery,
Chennai - 600 007.

2. The District Collector,
Singaravelar Maligai,
Rajaji Salai,
Chennai - 600 001.

3. The Commissioner,
Rippon Buildings,
Chennai - 600 003.

4. The Inspector of Police,
Traffic Police Station,
Vepery, Chennai.

+1cc to M/s.R.Arunmozhi, Advocate Sr.52753
+1cc to M/S.S.Vennimalai, Advocate Sr.53241
+1cc to the Government Pleader Sr.53035

W.P.No.24132 of 2017

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