

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.27100 of 2012
and MP No.1 of 2012
and MP No.1 of 2013

P.Rajeswari

.... Petitioner

Vs

The Chief Executive Officer,
Cantonment Board, St. Thomas Mount,
Chennai - 600 016.

.... Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified Mandamus, calling for the records relating to the impugned order passed by the respondent in Ref. No.STM/SAN/7/1554, dated 21.09.2012 and quash the same and further direct the respondent to consider the petitioner's Trade Licence Application dated 29.12.2011 in accordance with law stipulated in Section 277(2) of the Cantonments Act 2006.

For Petitioner : Mr.G.Jawaharlal

For Respondent : Mr.C.Mohan for M/s.King and Patridge

ORDER

This writ petition has been filed challenging the order dated 21.09.2012 passed by the respondent cancelling the Trade Licence issued to the petitioner.

2. It is the case of the petitioner that he is running a shop by name "Grand Sweets" at No.9, G.S.T. Road, St. Thomas Mount, Chennai - 16. According to the petitioner, the said land falls in a Cantonment area and the respondent will have to grant trade licence for the petitioner to run the shop. Accordingly, he applied for grant of trade licence with the respondent. However, the application for grant of trade licence was rejected by the respondent under the impugned order dated 21.09.2012 on the ground that a) the land belongs to State Government; b) educational institution land is attempted to be converted into commercial land and (c) the building is an unauthorised building. Aggrieved by the impugned orders dated 05.03.2012, 06.06.2012 and 21.09.2012, this writ petition has been filed.

3. A counter affidavit has been filed by the respondent stating that the petitioner has not complied with the statutory

requirements as contemplated under Section 277(4) of the Cantonment's Act, 2006. According to them, the petitioner has committed the following violations :-

- a) the land belongs to State Government;
- b) educational institution land is attempted to be converted into a commercial land and
- (c) the building is an unauthorised building.

In view of the above violations, the petitioner is not entitled for trade licence.

4. Heard Mr.G.Jawaharlal, learned counsel for the petitioner and Mr.C.Mohan, learned counsel for the respondent.

5. The learned counsel for the respondent fairly submitted that if the petitioner pays the Trade Licence fees for the period from 2011 to 2020 amounting to Rs.81,038/-, as disclosed in the annexure filed along with the counter affidavit, they are willing to consider the application for Trade Licence submitted by the petitioner. The learned counsel for the petitioner, on instructions also submits that the petitioner is willing to pay the sum of Rs.81,038/-, as demanded by the respondent.

6. Recording the submissions made by the learned counsels on both sides, this Court directs the petitioner to pay a sum of Rs.81,038/- (Rupees eighty one thousand and thirty eight only) to the respondent towards trade licence fees for the period from 2011 to 2020 and to submit a fresh application for Trade Licence for his shop viz., Grand Sweets, No.9, G.S.T. Road, St.Thomas Mount, Chennai - 600 016, within a period of two weeks from the date of receipt of a copy of this order. It is made clear that on remittance of a sum of Rs.81,038/- by the petitioner to the respondent, the respondent shall consider the application on merits and in accordance with law.

7. In the result, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CCC)

/True Copy/

Sub Assistant Registrar

To

The Chief Executive Officer, Cantonment Board,
St. Thomas Mount, Chennai - 600 016.

+1cc to Mr.G.Jawaharlal, Advocate Sr.No.13430

+1cc to M/s.King & Patridge, Advocate SR.No.13673

AKM/19.03.2020/2P-4C/

W.P. No.27100 of 2012