



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.05.2020
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THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

WP.No.7516 of 2020

R.Sivasankar

..Petitioner

Versus

1) The Chief Secretary

Government of Tamil Nadu

Fort St George, Chennai.

2) Secretary, Health and Family Welfare

Department, Government of Tamilnadu

Fort St George, Chennai.

..Respondents

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the respondents to direct the hotel and restaurant owners to incorporate the requirement of selling low priced takeaway [parcel] food for the public and free food to their respective employees and the poor and needy around their establishments, who are suffering as a result of the logistic shock arising out of the Covid-19 lock down.

For Petitioner : Dr.P.Sampath Kumar

For RR1 & 2 : Mr.V.Jayaprakash Narayan
Government Pleader

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

(1)The writ petition, styled as a Public Interest Litigation filed by the petitioner who claims to be a practicing lawyer and he would state that he is also doing social service for the poor and downtrodden in order to develop their social and economic standards wherever required.



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(2) A perusal of the contents of the affidavit would disclose that the petitioner who claims to be a practicing lawyer, before filing this writ petition, styled as Public Interest Litigation, has failed to carry out any due diligence or home work and that apart, he has not given the details of the so-called social service/activities being done by him.

(3) Be that as it may, it is the case of the petitioner that on account of COVID-19 lock down announced by the State Government, lot of poor people including employees of restaurants and hotels are stranded and affected without any regular employment and they are deprived of the basic necessities, viz., food and shelter and the management of the restaurants / hotels, taking advantage of the situation, had increased the price of food items dispensed with/sold very many times and also they are not provided with any free food or accommodation facilities to their employees and therefore, prays for appropriate direction, directing the official respondents to direct the hotels and restaurants owners to incorporate the requirement of selling low price takeaway / parcel food to public and free food to the respective employees as well as to poor and needy employed in their establishment, who are suffering due to the outbreak of the said pandemic virus.

(4) In the considered opinion of the Court, the writ petition, styled as a Public Interest Litigation, lacks merits and substance and deserves dismissal for the reasons assigned below.

(5) It is the claim of the petitioner that the restaurants and hotels had jacked up the prices of their food articles very many times and failed to implead the concerned Hotel/Restaurant Owners' Association as party respondent in this writ petition.

(6) It also appears from the affidavit that the petitioner had spoken about something from his personal knowledge and as already pointed out, he has failed to carry out any due diligence or home work before filing this writ petition. It is also to be noted at this juncture that the Restaurants/Hotels are running as commercial ventures with a profit motive and this Court can take judicial notice of the fact that on account of COVID-19 lock down and till recently, there was some difficulty in transportation of the essential articles from Districts to Capital and vice versa.

(7) Mr. V. Jayaprakash Narayan, learned Government Pleader appearing for the official respondents also brought to the knowledge of this Court that the State Government is running



654 'Amma Canteens' and providing free food to nearly 7 lakh persons per day.

(8) It is also relevant to extract the observations by the Hon'ble Supreme Court of India in the decision reported in 2010 [3] SCC 402 [The State of Uttaranchal Versus Balwant Singh Chaufal and Others. The Hon'ble Supreme Court of India, taking into consideration the various decisions, had laid down guidelines for filing the Public Interest Litigation for the purpose of maintaining purity and sanctity. In paragraph Nos.22, 23, 173 and 174, it was observed in the said decision that " It was expected from a member of noble profession not to invoke jurisdiction of the Court in a matter where controversy itself is no longer res integra. The petitioner, a local Practicing lawyer, ought to have bestowed some care before filing his writ petition in public interest under article 226 of the Constitution..... A degree of precision and purity in presentation is a sine qua non for a petition filed by a member of the Bar under the label of public interest litigation. It is expected from a member of the Bar to at least carry out the basic research whether the point raised by him is res integra or not. The lawyer who files such a petition cannot plead ignorance..... A practicing lawyer has deliberately abused the process of the court. In that process, he has made a serious attempt to demean an important constitutional office. The petitioner ought to have refrained from filing such a frivolous petition'".

(9) In the considered opinion of the Court, in the light of the reasons assigned above, the writ petition is liable to be dismissed.

(10) Accordingly, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

1) The Chief Secretary
Government of Tamil Nadu
Fort St George, Chennai.



2) Secretary, Health and Family Welfare
Department, Government of Tamilnadu
Fort St George, Chennai.

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