

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

WP.Nos.16563 & 16571 of 2020
and W.M.P.Nos.20542 & 20547 of 2020

Mrs. Roselin Mary ..Petitioner in W.P.No.16563/2020
C. Kanndasan ..Petitioner in W.P.No.16571/2020

Versus

The Chairperson/
Zonal Executive Engineer (Zone No.5)
(The Township Vending Committee)
Corporation of Chennai,
Basin Bridge Road,
Chennai 600 021.Respondents in W.P.No.16563/2020

1. The Chairperson/Zonal Officer (Zone No.7)
(The Township Vending Committee)
Corporation of Chennai,
Ambattur, Chennai 600053.

2. The District Collector,
Tiruvallur, Tiruvallur 602 001.Respondents in W.P.No.16571/2020

Prayer W.P.No.16563/2020:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus forbearing the Respondent its officials, servants from interfering with the running of the petitioner's bunk shop near Nehru Market Vanigavalagam Compound

Gate opposite to India Timber, Sydenhams Road, Chennai 03, wherein selling Tarpaulin and Banner Tarpaulin Sheet till the petitioner's representation dated 05.10.2020 is considered and decided as per the provisions of the Street Vendors (Protection of Livelihood Regulation) Act, 2014 by the Respondent.

Prayer W.P.No.16571/2020:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus forbearing the Respondent its officials servants from interfering with the running of the petitioners bunk shop Near Sub Registrars office of Ambattur and Konnur Campus, Ambattur, Chennai 53, wherein selling Tea, Coffee, Snacks and other items including the operating of small Xerox machine till the petitioners representation dated . 09.2020 is considered and decided as per the provisions of the Street Vendors (Protection of Livehood Regulation Act 2014 by the Respondent.

For Petitioners in both petitions : Mr.L.Chandrakumar
For Respondents in both petitions : Mr.M.Ganesan
Standing counsel

COMMON ORDER

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

The matter in issue pertains to enumeration of the petitioners, who claimed to be hawkers and also seek benevolence under the provisions of Street Vendors (Protection of Livelihood Regulation) Act, 2014 and Rules framed thereunder. Since the matter in issue in these Writ Petitions is one and the same, both these Writ Petitions are taken up and disposed of by this common order.

2. In W.P.No.16563 of 2020, the petitioner would aver that she is a self employed person and running bunk shop near Nehru Market commercial complex compound road, opposite to India Timber, Sydenhams Road, Chennai 600 003, for the past several years, wherein she is selling banner Tarpaulin sheets and due to on-set of COVID-19 pandemic, she was unable to carry on the business and on account of the easing out of the restrictions, she started opening the bunk shop and her livelihood is depending upon the meager income earned out of the said business. The petitioner would further aver that the officials of the respondent Corporation started frequently visiting her bunk shop and threatened her to dispossess from the said shop, stating that she did not apply before the Town Vending Committee. The petitioner, in this regard, has also submitted a representation dated 05.10.2020, praying for conducting of

enumeration process for the purpose of issuing identity card as well as certificate of vending, so as to enable her to carry on the business. It is further stated by the petitioner that vide order passed in W.P.No.18677 of 2014 etc., batch, this Court directed not to take any coercive action till the constitution of the town vending Committee and in the light of that fact, prays for appropriate orders, forbearing the respondents from interfering with the running of her shop, in terms of the Street Vendors Act.

3. The petitioner in W.P.No.16571 of 2020 would submit that he is a self employed person and running bunk shop near Sub Registrars Office of Ambattur and Konnur Campus, Ambattur, for the past one year, wherein he is selling Tea, Coffee, Snacks and other items and that apart also operating a small Xerox machine and due to on-set of COVID-19 pandemic, he was not able to carry on the business and on account of easing out of the restrictions, he started opening the bunk shop. At this juncture, the officials of the respondents started visiting his office and threatened him to dispossess. The petitioner also stand on the similar footing as that of the petitioner in W.P.No.16563 of 2020.

4. The learned counsel appearing for the petitioners would submit that proper enumeration has not been done and the appellate forum, to address the grievance of the persons, who had not been enumerated or identified, are yet to be constituted and till such time, prays for appropriate direction forbearing the respondents / officials from dispossessing them from the located bunk shops.

5. Per contra, learned standing counsel appearing for the respondents would submit that inspection was caused and only one bunk shop was available and that was located very close proximity to the road margin and it also causing traffic nuisance and inconvenience and admittedly, the claims of the petitioners, as to the putting up of their workshop, have not been accepted, as the bunk shop is located very close proximity to the road margin and on instructions would submit that enumeration has been done in respect of all fifteen zones and hawkers / vendors have been identified and admittedly, the petitioners have not been identified as hawkers / vendors and since they are the rank encroachers, they are liable to be evicted by following the due process of law.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. The Hon'ble Supreme Court of India has exhibited benevolence by passing appropriate direction to give relief to the street vendors and accordingly the legislature thought fit to enact Street Vendors (Protection of Livelihood Regulation Act), 2014 and statutory rules have also been framed under the provisions of the said Act. It is also to be noted that the enactment of the Act is to benefit street vendors and at the same time, it shall not cause any inconvenience to the general public, especially for the reason that most of the bunk shops are located right on the platform, which are meant for pedestrians. If the petitioners are permitted to locate shops in the platforms, then the pedestrians will be forced to walk on the road, which may also results in accidents, injuries and fatalities.

8. In the light of the stand taken by the Corporation, on instructions, that enumerations have also been done in respect of all zones, which came within the jurisdiction of the Greater Chennai Corporation and the petitioners have not been identified as hawkers / vendors and that apart, the bunk shop, according to the photographs filed in support of the typed set of documents, located right on the platform, this Court is not inclined to exercise any indulgence in their favour and that there cannot be any authorised bunk shop on the platforms or road margins on all 15 zones and the officials concerned of the Corporation of Chennai, including the Commissioner shall take appropriate steps in this regard for removal of the same, by following the due process of law.

9. However taking into consideration the submission made by the learned counsel appearing for the petitioner, as and when such Committee is constituted, it is always open to the petitioners to file appeal remedy. This Court is inclined to grant the said appeal remedy to the petitioners, in the event of producing relevant and authenticated documents for consideration.

10. In the result, the Writ Petitions are dismissed, subject to above observations. Consequently connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Chairperson/

Zonal Executive Engineer (Zone No.5)
(The Township Vending Committee)
Corporation of Chennai,
Basin Bridge Road,
Chennai 600 021.

2.The District Collector,

Tiruvallur, Tiruvallur 602 001.

3.The Chairperson/Zonal Officer (Zone No.7)

(The Township Vending Committee)
Corporation of Chennai,
Ambattur, Chennai 600053.

Copy to:

The Commissioner,
Corporation of Chennai.
Rippon Building,
Chennai-600 003.

+1cc to Mr.R.Kamaraj, Advocate, SR.NO.39689
+1cc to Mr.R.Kamaraj, Advocate, SR.NO.39688
+1cc to Mr.M.Ganesan, Advocate, SR.NO.39610
+1cc to Mr.M.Ganesan, Advocate, SR.NO.39609

W.P.Nos.16563 & 16571 of 2020

MJB (CO)
KKV/29/12/2020

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