

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.02.2020

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.19911 of 2019

S.Kannan

.. Petitioner

..Vs..

1. The Director of Medical Education,
Kilpauk,
Chennai - 10.
2. The District Collector,
Salem District,
Salem.
3. The Dean,
Mohan Kumaramangalam
Government Hospital College,
Salem - 1.

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings of the 3rd respondent in Na.Ka.No.7357/Thi (Ma) Va/2019, dated 24.06.2019 and quash the same as illegal, incompetent and ultravires and consequently direct the respondents to permit the petitioner to run a tea stall/bunk shop at 3rd respondent hospital by considering the representation dated 18.06.2018.

For Petitioner : Mr.R. Jaya Prakash

For Respondents : Mr.R.Govindasamy

Additional Government Pleader

O R D E R

The petitioner had knocked the doors of this Court earlier by filing writ petition in W.P.No.6290 of 2019 which had been disposed on 05.03.2019.

2. Now, he has again filed the present writ petition in the nature of Certiorarified Mandamus to call for the records pertaining to the proceedings of the 3rd respondent namely the

Dean, Mohan Kumaramangalam Government Hospital College, Salem in Na.Ka.No.7357/Thi (Ma) Va/2019, dated 24.06.2019 and quash the same.

3. The petitioner is a physically handicapped person. He, to earn his livelihood, has been seeking permission to run a Tea Stall / Bunk Shop in the premises of the 3rd respondent hospital. These efforts by the petitioner has been a continuing process from the year 2011.

4. At the initial stages, the authority considered his representation favourably. The application of the petitioner was forwarded by the Principal of the 3rd respondent to Public Works Department. The Executive Engineer of the Public Works Department by letter dated 11.06.2013 had addressed a communication to the Principal of the 3rd respondent giving the exact location where the bunk shop of the petitioner can be located. Thereafter, the Public Works Department also determined the rent which has to be paid. After that nothing happened. The petitioner was not allotted and was not permitted to put up a Bunk Shop. He had given several representations.

5. Therefore, he filed W.P.No.6290 of 2019 that came to be disposed by an order dated 05.03.2019 wherein the 3rd respondent namely the Dean, Mohan Kumaramangalam Government Hospital College, Salem was directed to consider the representation of the petitioner dated 18.06.2018 and pass orders. The said official considered the same and passed orders on 24.06.2019, rejecting the representation of the petitioner. This has been the cause for filing of the present writ petition.

6. Mr.R.Govindasamy, learned Additional Government Pleader who had taken notice on behalf of the respondent strenuously stated that the G.O.MS.No.93, Health and Family Welfare Department, dated 25.03.2015 has been passed by the Government specifically prohibiting new Tea Stalls/Bunk Shops to be put up in the Government Hospital/ Public Places. This was in view of the fact that representation was received that the shops which were running and selling small edible items were not maintaining hygiene to the expected level. There were complaints about cats and rats infestation. That Government order came to be challenged in a series of writ petitions before this Court and in a common order by my brother Justice S.M.Subramanian, directions were given to the Government that they should ensure that the existing Tea Stall/Bunk Shop owners maintain hygiene standards. However, no directions were issued with respect to put up a new Tea Stall/Bunk Shop.

7. At any rate, the petitioner stands in a different footing that he is physically handicapped. That fact should be considered by the authorities since the petitioner is running the business for their livelihood. A Physically handicapped Certificate is also been enclosed with the typed set of papers.

8. The petitioner claims that he cannot perform his normal duties and hence he seeks protection from this Court to be permitted to run the Tea Stall/Bunk Shop.

9. In view of all these factors, the petitioner, again, if he is so advised or desires, approach the 1st respondent / Director of Medical Education, Kilpauk, Chennai - 10 seeking an appointment, give a representation, enclosing his medical certificate and lay out a claim for the Bunk Shop to be established in the 3rd respondent / Mohan Kumaramangalam Government Hospital College, Salem.

10. The 1st respondent may examine all aspects including availability of space and whether the petitioner would abide with the conditions to maintain hygiene, quality of foods and whether the petitioner would pay any rent which is fixed/determined, and whether his actions are within the parameters of the G.O.MS.No.93, Health and Family Welfare Department, dated 25.03.2015 and thereafter pass an order with reasons.

11. The petitioner may seek an appointment to meet the 1st respondent on any of the working day between 17.02.2020 to 21.02.2020. On receipt of the representation and on personal examination of the petitioner, the 1st respondent/the Director of Medical Education, Kilpauk, Chennai - 10 may pass orders on or before 31.03.2020.

12. With the above direction, this writ petition is disposed of. No costs.

s/d-
सत्यमेव जयते

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

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To

1. The Director of Medical Education,
Kilpauk,
Chennai - 10.

2. The District Collector,
Salem District,
Salem.

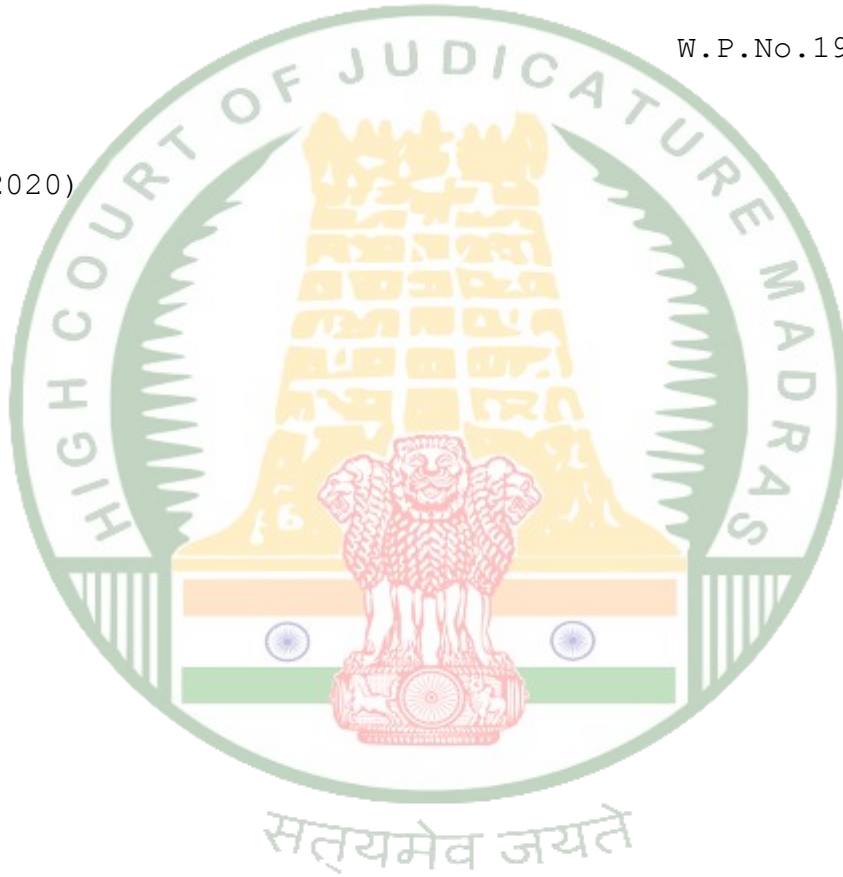
3. The Dean,
Mohan Kumaramangalam
Government Hospital College,
Salem - 1.

+1 CC to The Govt. Pleader sr 10386.

+1 CC to Mr.R.Jayaprakash, Advocate sr 69583.

W.P.No.19911 of 2019

VGI (CO)
SP(10/02/2020)



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