

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.33951 of 2018

and

W.M.P.Nos.39427 & 39430 of 2018 and 11371/2019

K.Anbalagan
No.2/64, Kumaran Nagar
Hospital Colony, Mettur Dam
Salem District.

...Petitioner

Vs.

- 1.The Director of Medical and Rural Health Services
3rd Floor, DMS Complex, Anna Salai
Teynampet, Chennai-600 018.
- 2.The Joint Director of Medical and Rural Health Service
Salem, Salem District.
- 3.The Chief Engineer
Public Works Department
Chepauk, Chennai.
- 4.The Dean
District Head Quarters Govt. Hospital
Mettur Dam, Salem District.
- 5.The Superintendent of Hospital
District Head Quarters Government Hospital
Mettur Dam, Salem District.

...Respondents

Praying: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 5th respondent issued vide proceedings in Na.Ka.No.2050/K2/2018 dated 18.08.2018 and in Na.Ka.No.2050/K2/2018 dated 10.12.2018 and quash the same and consequently, direct the 1st respondent herein to renew and permit the petitioner to run the public telephone booth in the 4th respondent's premises by considering his renewal application dated 29.05.2018.

For Petitioner : Mr.G.Arul Murugan
For Respondents: Mr.Karthekai Balan
Government Advocate

O R D E R

This matter is taken up for hearing through Video Conferencing mode.

2. This writ petition is filed challenging the orders of the 5th respondent dated 18.08.2018 and 10.12.2018, wherein and whereby, the petitioner was asked to vacate his telephone booth located inside the District Headquarters Government Hospital, Mettur Dam.

3. Heard Mr.G.Arul Murugan, learned counsel for the petitioner and Mr.Karthekai Balan, learned Government Advocate for the respondents.

4. The petitioner is a physically challenged person. He was permitted to run a telephone booth inside the District Headquarters Government Hospital, Mettur Dam. The permission was granted for the period from 10.07.2017 to 09.07.2018. The petitioner made an application for renewal of permission to run the telephone booth for the period from 10.07.2018 to 09.07.2019 and even before the said application was considered, the 5th respondent passed the present impugned order calling upon the petitioner to vacate on the expiry of the original period of permission. The grievance of the petitioner is that when such application was filed for renewal of permission, the 5th respondent cannot pass the present impugned order.

5. On the other hand, the learned Government Advocate for the respondents submitted that the very application filed by the petitioner for renewal is for the period being upto 09.07.2019 and therefore, in the absence of any fresh application for renewal for further period, the petitioner cannot maintain the present writ petition any further.

6. There is no dispute to the fact that the petitioner is physically challenged person and he was granted permission to run his telephone booth inside the District Headquarters Government Hospital, Mettur Dam. It is also not in dispute that the petitioner's application for renewal of the period from 10.07.2018 to 09.07.2019 was not disposed of. As the 5th respondent has passed the impugned order in the meantime, the petitioner has approached this Court and this Court has also granted interim order of stay, which is still in operation. Therefore, the fact remains that the petitioner is still running the telephone booth. The only objection is that the petitioner has not applied fresh application seeking renewal for the period commencing from 2019 as well. Upon considering all the facts and circumstances and hearing the learned counsel for the petitioner and the respondents, this Court is of the view that the interest of both parties would be met by disposing the

present writ petition as follows.

7. Accordingly, this Writ Petition is disposed of with the following directions:

(a) The petitioner shall make fresh application for the relevant period, apart from the earlier application submitted by him, within a period of two weeks from the date of receipt of a copy of this order.

(b) On receipt of such application, the first respondent shall consider the said application and pass orders on the same within a period of four weeks thereafter.

(c) In case, if the first respondent considered the application of the petitioner and extended the period of permission, the petitioner can continue the telephone booth in the said premises.

(d) On the other hand, if the said application is rejected by the first respondent on any reason, it is open to the petitioner to challenge the same before this Court within a period of four weeks from the date of receipt of a copy of the order passed by the first respondent.

(d) Till such time, the petitioner shall not be disturbed by the respondents in having his telephone booth at the District Headquarters Government Hospital, Mettur Dam.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Director of Medical and Rural Health Services
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Teynampet, Chennai-600 018.

2.The Joint Director of Medical and Rural Health Service
Salem, Salem District.

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Mettur Dam, Salem District.

5.The Superintendent of Hospital
District Head Quarters Government Hospital
Mettur Dam, Salem District.

+1 cc to M/s.G.Arulmurugan, Advocate Sr.No. 33381
+1 cc to The Government Pleader, Sr.No. 33312

W.P.No.33951 of 2018

SSV(CO)
RMP(22/10/2020)