



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.11.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.15720 of 2020

WEB COPY

S.Anna Jothi

... Petitioner

Vs

1.The District Collector,
Kanyakumari District,
at Nagercoil.

2.The Assistant Director,
Town Panchayat,
Collectorate Campus,
Nagercoil,
Kanyakumari District.

3.The Executive Officer,
Kanyakumari Town Panchayat,
Kanyakumari,
Kanyakumari District.

4.The Executive Officer,
Hindu Religious and Charitable
Endowments Department,
Arulmigu Bhagabvathyamman Tirukkoil,
Kanyakumari,
Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent Nos.1 to 3 to consider the representation dated 23.09.2020 made by the petitioner herein to conduct auction for the vacant land belonging to the third respondent panchayat for doing temporary festival business in organised manner by following all COVID-19 protocol from 15.11.2020 to 15.01.2021 and to pass appropriate orders within stipulated time period as may be fixed by this Court.

For Petitioner : Mr.T.Sundaravadanam

For R-1 and R-2 : Mr.A.Muthukaruppan,
Additional Government Pleader

For R-3 : Mr.Aayiram K.Selvakumar
Standing Counsel



ORDER

(This Petition was heard through Video Conferencing)

This writ petition has been filed for a Mandamus seeking for a direction to the respondents 1 to 3 to consider the petitioner's representation dated 23.09.2020, requesting the respondents 1 to 3 to conduct auction for the vacant land belonging to the third respondent panchayat for doing temporary festival business at (i) Rajiv Gandhi Statue to Government Museum-100 meters away (ii) Sannathi Street-150 meters away (iii) Tamil Annai Park to Kovalam VAO Office road-50 meters away from sea shore by following all COVID-19 protocol from 15.11.2020 to 15.01.2021.

2. Heard Mr.T.Sundaravadanam, learned counsel for the petitioner, Mr.A.Muthukaruppan, learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.Aayiram K.Selvakumar, learned Standing Counsel appearing for the third respondent.

3. It is the case of the petitioner that normally the third respondent publishes tender notice for the period of November 15 to January 15 every year for selling certain items in the aforementioned areas. According to her, she is the resident of the said area and she had been participating in the auction conducted by the third respondent in the past. According to her, in view of the order passed by a Division Bench of this Court on 22.10.2019, in W.P (MD) No.21116 of 2019, by which the respondents were prevented from conducting auction for the purpose of putting up shops near Kanyakumari beach, the respondent has stopped conducting auction in other areas near the beach also apart from the area stipulated by the Division Bench of this Court to put up shops.

4. It is the further case of the petitioner that her livelihood will be affected, if she is not allowed to put up a shop in the area, which is not the subject matter of the order dated 22.10.2019, passed by the Division Bench of this Court in W.P(MD) No.21116 of 2019. In such circumstances, she has given a representation on 23.09.2020 to the third respondent calling upon them to conduct auction for the vacant land belonging to the third respondent for doing temporary festival business in organized manner by following all COVID-19 protocol from 15.11.2020 to 15.01.2021. According to her, the said representation has not been considered by the third respondent till date. In such circumstances, this Writ petition has been filed.

5. The petitioner in this writ petition has made it clear that she has no objection, if the order of the Division Bench dated 22.10.2019, passed in W.P(MD)No.21116 of 2019 is complied with by the respondents in letter and spirit. Her only grievance is that



apart from the said demarcated area, there are other areas in and around Kanyakumari beach, which can be auctioned for putting up shops during the festival period between 15.11.2020 to 15.01.2021. She has also given a representation on 23.09.2020 to the third respondent calling upon them to conduct auction for the vacant land belonging to the third respondent panchayat, which is not forming part of the directions issued by the Division Bench of this Court in its order dated 22.10.2019, passed in W.P(MD) No.21116 of 2019. The relief sought for by the petitioner is an innocuous relief. According to her, non conduct of the auction by the third respondent is affecting her livelihood, as she has been regularly participating in the auction conducted by the third respondent in the past. It is for the third respondent to consider the representation of the petitioner on merits and in accordance with law. However, the third respondent shall comply with the directions given by the Division Bench of this Court dated 22.10.019 in W.P(MD) No.21116 of 2019 without fail.

6.For the forgoing reasons, this Court directs the third respondent to consider the petitioner's representation dated 23.09.2020 seeking for conduct of auction for the vacant land belonging to the third respondent for doing temporary festival business in organized manner by following all COVID-19 protocol from 15.11.2020 to 15.01.2021 and pass final orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. However, it is made clear that the third respondent, while considering the petitioner's representation shall strictly abide the directions issued by the Division Bench of this Court dated 22.10.2019 in W.P(MD) No.21116 of 2019 in letter and spirit.

7.With the aforesaid direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

<https://hcservices.courts.gov.in/hcservices/>



To

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+1 CC to Mr.T.SUNDARAVADANAM, Advocate (SR-21677[F] dated
10/11/2020)

+1 CC to Spl GP (SR-21771[F] dated 10/11/2020)

W.P. (MD) No.15720 of 2020
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VB (26.11.2020) 4P 7C