

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.02.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.No.2919 of 2021
and W.M.P.No.3269 of 2021

S.Anand

.. Petitioner

Versus

1.The State Commissioner for Differently Abled
O/o.State Commissioner for Differently Abled
J.N.Ring Road, Chennai 600 078.

2.The Commissioner,
Corporation of Chennai,
Ribbon Building, Chennai 600 003.

3.The Regional Officer,
Zone 13 of Corporation of Chennai,
No.115, Dr.Muthulakshmi Road,
Adyar, Chennai 20.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus to call for the records from the 3rd respondent pertaining to the impugned order Ma.A.13, Na.Ka.No.A4/3724/2021 dated 23.01.2021 and quash the same and consequently to direct the 2nd and 3rd respondents not to disturb the

petitioner's Bunk Shop in view of the Street Vendors (Protection of Livelihood & Regulation of Street Vending) Act,2014 and pass such other further order as this Court may deem fit.

For Petitioner : Mr.P.Vijendran

For RR 2 & 3 : Mr.Kamal Kannan
Government Advocate

Mr.K.Raja Srinivas
Additional Government Pleader

ORDER

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

The petitioner claims that he is a physically challenged, having disability of 80% and in this regard, the District Disability Welfare Officer, Chennai, has issued a Certificate to that effect.

2. The petitioner, on an earlier occasion, filed W.P.No.10517 of 2016, against the respondents 1 and 3 as well as against the Secretary to Government, Local Administration Department, Chennai 600 009, praying for issuance of a Writ of Mandamus, directing the 3rd respondent to consider the petitioner's representation dated 02.03.2016, for grant of license/permission to run bunk shop and pass orders and till such time,

forbear the 3rd respondent, their officials, servants from in any manner interfering with the running of the petitioner's bunk shop opposite to TVH Penninsula Towers, Janaki Avenue, Chaitanya Apartment Compound, Chennai 600 028, wherein he sells tea, coffee, food and other snack items. A Single Bench of this Court, vide final order dated 21.03.2016, has disposed of the said Writ Petition, without going into the merits of the claim projected by the petitioner, by granting liberty to send one more copy of the representation dated 02.03.2016, to the 3rd respondent therein, within a period of two weeks from the date of receipt of a copy of that order and upon receipt, the 3rd respondent was directed to consider and pass orders on merits within a further period of four weeks thereafter.

3. The DRO/Zonal Officer XIII, Adyar, Chennai 600 020, after referring to the order dated 21.03.2016, passed in W.P.No.10517/2016, sent a communication dated 27.09.2016 and having noted that as per the Inspection Report, it was found that he has occupied the entire width of the foot path without leaving place for pedestrian movement and vehicular movement and the MRC Nagar Main Road is also the busiest road, wherein, there are number of companies, schools, temple, wedding

hall etc., rejected the request made by him and also indicated that the Corporation of Chennai is also going to remove the bunk shop put up by him. The petitioner made a challenge to the said communication by filing W.P.No.22940/2017 and the learned Single Bench of this Court, vide final order dated 28.08.2017 has disposed of the said Writ Petition and granted liberty to the petitioner to give representation to the Vending Committee, constituted in terms of G.O.(4D) No.5, Municipal Administration and Water Supply (MCI) Department, dated 05.10.2016, within a period of two weeks from the date of receipt of a copy of that order with further directions that upon receipt, the Vending Committee was directed to consider and pass appropriate orders in accordance with law.

4. It appears that the petitioner did not submit any representation within a stipulated time frame and seems to have submitted the representation only on 03.09.2019, stating out his physical disability and that he is also running the bunk shop from 2011 onwards and prays for appropriate orders to include his name as beneficiary in respect of bunk shop in Zone XIII and to issue Identity Card to that effect.

5. The learned counsel appearing for the petitioner would submit that the petitioner has obtained necessary license issued by the Tamil Nadu Food Safety and Drug Administration Department (Food Safety Wing) vide Registration No.22419549000358 and also paid other statutory levies and without taking note of the factual and other circumstances, the 3rd respondent has erroneously rejected the plea made by the petitioner. The primordial submission made by the learned counsel appearing for the petitioner is that since the bunk shop is not a hindrance to any movement of public or causing nuisance etc and also that he is having physical disability of over 80% and the bunk shop is his sole source of livelihood, this Court may show sympathy and pass appropriate orders.

6. *Per contra*, Mr.Raja Srinivas, learned Standing Counsel (Corporation) accepts notice on behalf of the respondents 2 and 3 and would submit that in similar facts, one Mr.G.Karthick, has filed W.P.No.13846 of 2020, in respect of one of the bunk shop in the very same locality and this Court has dismissed the said Writ Petition on 07.10.2020 and similar orders have also been passed in W.P.No.14284 of 2020. It is the further submission of the learned Standing Counsel

appearing for the respondents 2 and 3 that the area in question is classified as Non Vending Zone and as such, the petitioner as well as other persons similarly placed, do not have any right to locate and run bunk shops and taking into consideration of the same, the 3rd respondent has rightly rejected the plea made by the petitioner and prays for dismissal of this Writ Petition.

7. This Court has heard the submission of Mr.S.Kamala Kannan, learned Government Advocate appearing for the 1st respondent also.

8. It appears from the materials placed, especially the order dated 28.08.2017 made in W.P.No.22940 of 2017 that the petitioner did not submit his representation within a period of two weeks from the date of receipt of a copy of that order and submitted his representation only on 03.09.2019, without even quoting the above cited order. The impugned order also discloses the reason that since the area has been classified as Non Vending Zone, removable bunk shop cannot be located and called upon him to remove the same within a period of 30 days from the date of receipt of the said communication.

9. Admittedly, the petitioner has located the bunk shop on a platform and in the light of the stand taken by the learned Standing Counsel appearing for the 3rd respondent, the petitioner cannot claim any indivisible right to locate and run the bunk shop in question. As rightly pointed out by the learned Standing Counsel appearing for the respondents 2 and 3, in respect of other persons, who are also running bunk shops in the very same area, the writ petitions filed have also been dismissed.

10. This Court finds no merits in this Writ Petition and accordingly dismissed the same, confirming the order dated 23.01.2021, passed by the 3rd respondent. No costs. Consequently connected miscellaneous petition is closed.

[M.S.N.,J] [A.A.N.,J.]

11.02.2021

sk

Internet: Yes /No

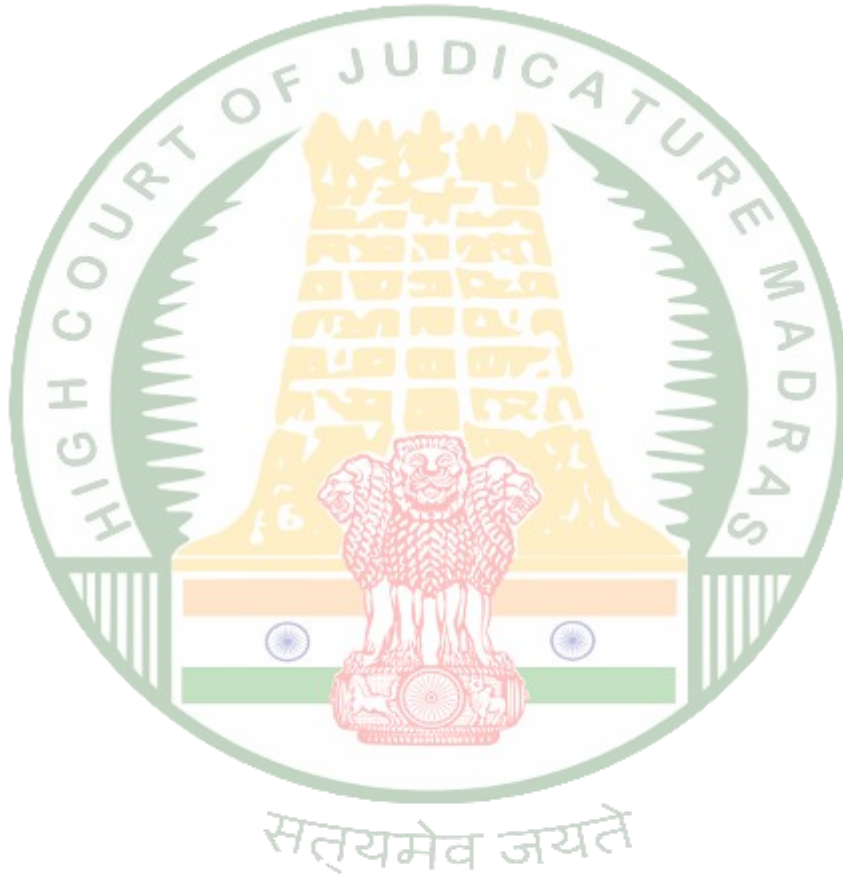
Index: Yes/ No

To

1. The State Commissioner for Differently Abled
O/o. State Commissioner for Differently Abled
J.N. Ring Road, Chennai 600 078.

2.The Commissioner,
Corporation of Chennai,
Ribbon Building, Chennai 600 003.

3.The Regional Officer,
Zone 13 of Corporation of Chennai,
No.115, Dr.Muthulakshmi Road,
Adyar, Chennai 20.

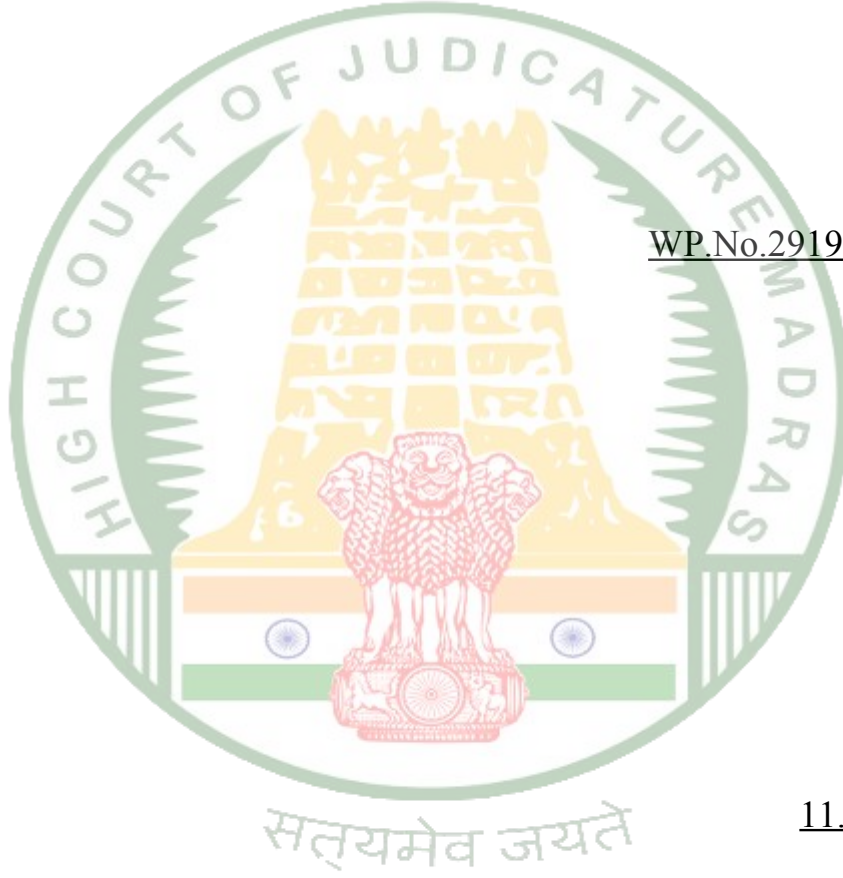


WEB COPY

WP.No.2919 of 2021

M.SATHYANARAYANAN, J.,
AND
A.A.NAKKIRAN, J.,

sk



WP.No.2919 of 2021

11.02.2021

WEB COPY