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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.995 of 2018

Natesan Theru Sirukadai Thattu
Vyabarikal Nala Sangam,
Rep. by its Secretary,
Reg.No.489/2017,
No.37, Siva Vishnu Complex,
Natesan Street,
T.Nagar, Chennai - 600 017.

.. Appellant

Vs

1. The Secretary to Government,
Commissionerate of Municipal Administration,
Government of Tamil Nadu,
Ezhilagam, Chepauk,
Chennai - 600 005.
2. The District Collector,
Chennai, Rajaji Salai,
Chennai District.
3. The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
Chennai - 600 003.
4. The Commissioner of Police,
Vepery, Chennai - 600 007.
5. The Inspector of Police
(Law & Order),
R1, Mambalam Police Station,
No.1, Madley Road,
T.Nagar, Chennai - 600 017.

.. Respondents



Appeal filed under Clause 15 of Letters Patent against the order dated 26.03.2018 made in W.P.No.4960 of 2018.

Prayer in W.P.No.4960 of 2018:

It is prayed that this Hon'ble Court may be pleased to issue appropriate writs, orders or directions and in particular issue a writ in the nature of Writ of Mandamus, forbearing the 2nd to 5th respondents from interfering with the members of the petitioners Sangam (as per the members list filed in the typed set) from carrying on the vending activities on the Usman road and Natesan Street T.Nagar Chennai-17, without following procedure established under the "Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014" and Rules framed there under and pass such other order.

For Appellant	:	Mr.S.T.Varadarajulu
For Respondents	:	Mr.S.John J Raja Singh, Govt. Counsel for R1,R2,R4 & R5 Mr.M.Ganesan for R3

JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

This appeal has been preferred by the appellant aggrieved over the order of the learned Single Judge, who while declining to grant the relief, observed that the appellant has not approached the Court with clean hands.

2. Incidentally, it has been stated that the eviction has been carried out pursuant to the orders of the Division Bench. We would like to quote the relevant portion of the order passed by the learned Single Judge:

"6. Learned Special Government Pleader urged that the members of the petitioner had been evicted in order to implement the order of the First Bench of this Court dated 14.07.2016 and therefore the petitioner cannot rely on the earlier order. It is further contended that admittedly no challenge was made to the order of the First Bench and the present writ petition filed by the association suppressing the material facts is liable to be dismissed with exemplary cost.

7.The learned Standing Counsel appearing for the third respondent submitted that the petitioner-



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Sangam has not come with clean hands and it is guilty of suppression of material facts. In the affidavit, it is stated that 272 members were enrolled in the petitioner Union, but, the information provided by the Registrar of Society, Chennai, dated 12.3.2018, shows that the petitioner Sangam has only 19 members.

8. In the writ petition W.P.No.4566 of 2014 filed by the T.Nagar Residents Welfare Association, for removal of encroachment made by Hawkers on Usman Road and other streets in T.nagar, Chennai, the First Bench held that hawking cannot be on the public streets and the streets must be kept free of any encroachment by hawkers, so that traffic movement in smooth. The order has reached finality as no appeal was preferred against the order.

9. Perusal of the records reveal that there is no reference about above order either in the affidavit or in the typed set. When the petitioner seeks relief on the basis of the order dated 30.9.2015 passed in W.P.No.18397 of 2014 batch, it cannot pretext saying no knowledge about the order of the First Bench dated 14.07.2016. As rightly contended by the learned counsel for the respondents that the petitioner has not approached the Court with clean hands.

10. It is settled law that the party who approaches the High Court by invoking Article 226 of the Constitution of India shall come to the court with clean hand. If there is any false statement or suppression of facts, on that ground the writ petition is liable to be dismissed."

3. In light of the above, the submission made by the learned counsel appearing for the appellant cannot be countenanced. If the appellant has got any grievance, remedy open either to him or to its members is to approach the Vending Committee. Admittedly, the Vending Committee has been constituted and there is a periodical review meeting is happening.



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4. Thus, we do not find any reason to interfere with the order passed by the learned Single Judge except giving liberty to approach the Vending Committee, if so advised.

5. The writ appeal stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

mmi/ssm

To

1. The Secretary to Government,
Commissionerate of Municipal Administration,
Government of Tamil Nadu,
Ezhilagam, Chepauk, Chennai - 600 005.
2. The District Collector,
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No.1, Madley Road, T.Nagar, Chennai - 600 017.

+1cc to Mr.S.T.Varadarajulu, Advocate SR.No.30963

W.A.No.995 of 2018

JPL(CO)
RLP(29/07/2021)