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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No .15441 of 2021

and

WMP No. 16368 of 2021

N. Nagendran

Versus

.. Petitioner

1. The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.
2. The Dean,
Government Mohan Kumaramangalam
Medical College and Hospital,
Salem - 636 001.
3. The Executive Engineer,
Public Works Department (PWD),
Building and Maintenance Section,
Medical Works, Salem - 7.
4. The Assistant Executive Engineer,
Public Works Department Buildings,
Medical Works,
Government Mohan Kumaramangalam,
Medical College and Hospital,
Salem - 636 001.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings in Na.Ka.No.Special/Dean/2021 dated 10.07.2021 on the file of the second respondent herein and Na.Ka.No.7357/Thee(Ma) Va/2019 dated 14.07.2021 on the file of the second respondent herein and quash the same in respect of the petitioner canteen shop in Government Mohan Kumaramangalam Medical College and Hospital, Salem shop and directing the first respondent herein to consider the petitioner application dated 14.07.2021 for grant of permission to run a canteen in Government Mohan Kumaramangalam Medical College and Hospital, Salem.

For Petitioner

:

Mr. A. Kalaivanan

For Respondents

:

Mr. Stalin Abhimanyu
Government Counsel



ORDER

Challenging the orders dated 10.07.2021 and 14.07.2021 of the second respondent, directing the petitioner to vacate the Tea shop cum Canteen run by him within the premises of the second respondent hospital, the present writ petition is filed.

2. It is claimed by the petitioner is running the Tea shop cum canteen in the premises of the second respondent after obtaining licence for the period from 19.10.2018 till 18.10.2021 which was renewed till 18.10.2021. While so, by the impugned orders dated 10.07.2021 and 14.07.2021 of the second respondent, the petitioner was directed to vacate the tea shop/canteen within seven days. Aggrieved by the same, the present writ petition is filed.

3. The learned counsel for the petitioner submits that the petitioner was directed to vacate the tea shop/canteen by citing the prevalence of Covid-19 Pandemic. In the impugned order, there is no other reason assigned by the second respondent requiring the petitioner to vacate the shop. The petitioner has been running the shop since 19.10.2018 and also remitting the periodical rent. Further, the licence issued to the petitioner is valid till 18.10.2021. While so, the impugned order is arbitrary and unreasonable.

4. The learned Government Counsel opposed the writ petition by placing reliance on the counter affidavit. According to the learned Government Advocate, the petitioner was permitted to run the tea shop/canteen. However, the petitioner has encroached the area more than the one allotted to him and in spite of warnings given to him. Above all, the petitioner has been dumping the unused wastages into the drainage which resulted in blockage of the drainage. In any event, the Government has taken a policy decision by issuing GO Ms. No.93, Public Welfare and Family Health Department dated 25.03.2015 not to let out the premises inside the Government Hospitals to private individuals and such canteens or petty or milk parlours shops have to be run by Government Organisations. It is also ordered that tender has to be flouted for allotment of shops. Further, the order, which is impugned in this writ petition, was passed to ensure that there is no rise in the Covid-19 Pandemic by reason of the petitioner and other similarly placed persons running the shops and therefore also, closure of the shops is necessary. Above all, the respondents have proposed to shift all the canteens and petty shops from their current locations to a place to form a Food Court to avoid issues like drainage blocks, fire and rodent problems. While so, the learned Government Counsel prayed for dismissal of the writ petition.



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5. It is apparent from the records that the petitioner is running the tea shop/canteen from 19.10.2018 inside the hospital premises of the second respondent. Admittedly, the licence issued to the petitioner is valid till 18.10.2021. As far as the impugned order dated 10.07.2021 and 14.07.2021 is concerned, it is evident that the second respondent has only cited the prevalence of Covid-19 Pandemic for eviction of the petitioner. In the order dated 14.07.2021, no other reason has been mentioned by the second respondent. However, in the counter affidavit of the second respondent, reference has been made to the effect that the petitioner has encroached and occupied more area than what was allotted to him etc., But those averments are absent in the impugned order. According to the petitioner, after receipt of the order dated 14.07.2021, he has submitted a representation dated 14.07.2021 requesting the second respondent to allot a temporary place till the Covid-19 pandemic subside but it was not considered by the respondents.

6. In the light of the above, without expressing any opinion on merits as regards the validity or otherwise of the orders dated 10.07.2021 and 14.07.2021 of the second respondent, the second respondent is directed to consider the representation dated 14.07.2021 of the petitioner for providing an alternative place to run the tea shop/canteen within the precincts of the second respondent hospital temporarily till the Covid-19 Pandemic subside and pass orders on merits and in accordance with law, after affording an opportunity of hearing to the petitioner, within a period of week from the date of receipt of a copy of this order.

7. Accordingly, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

// True Copy //

Sub Assistant Registrar

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To

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WP No. 15441 of 2021

PM(CO)
B.VC (24/09/2021)