



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.24851, 24855, 24857, 24861, 24865, 24867, 24870,
24874, 24875 & 24878 of 2021

and

WMP.Nos.26144,26145,26149,26150,26155,26156,26161,
26162,26167,26169,26170, 26172,26174, 26175,26180, 26182,
26184, 26185, 26187 & 26189 of 2021

Ikbal	... Petitioner in WP No.24851 of 2021
V.L.K.Chandran	... Petitioner in WP No.24855 of 2021
Majeeth	... Petitioner in WP No.24857 of 2021
Lakshmi	... Petitioner in WP No.24861 of 2021
Lawrence	... Petitioner in WP No.24865 of 2021
Majeeth	... Petitioner in WP No.24867 of 2021
S.Kullu	... Petitioner in WP No.24870 of 2021
Shabeer	... Petitioner in WP No.24874 of 2021
Shahida	... Petitioner in WP No.24875 of 2021
Anitha	... Petitioner in WP No.24878 of 2021

Vs.

1.The Principal Secretary to Government,
Tourism, Culture and Religious Endowment Department,
Secretariat, Chennai-9.

2.The Commissioner & Managing Director,
Tamil Nadu Tourism Development Corporation,
Tourism Complex, No.2, Wallajah Road,
Triplicane, Chennai-2.

3.The District Collector,
Udhagamandalam, Nilgiris District.

4.The Regional Manager,
Tamil Nadu Tourism Development Corporation,
Udhagamandalam, Nilgiris District.

5.The Manager,
Boat House, Udhagamandalam, Nilgiris District.

... Respondents in all W.P's



Common Prayer: This Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in No.151/Pa.E/Udagai/2021 dated 22.10.2021 on the file of the 5th respondent and quash the same and further direct the 5th respondent to restore the petitioner in his premises.

For Petitioners : Mr.V.Raghavachari
(In all the petitions)

For Respondents : Mr. U.Baranidharan
Additional Government Pleader
(In all the Writ Petitions)

COMMON ORDER

The issues involved in all the writ petitions are common and hence, they are taken up together, heard and disposed of through this common order.

2. These Writ Petitions have been filed for the issue of a Writ of Certiorarified Mandamus calling for the records in No.151/Pa.E/Udagai/2021 dated 22.10.2021 on the file of the 5th respondent and quash the same and further direct the 5th respondent to restore the petitioners in their premises.

3. The facts of the case are as follows:

The petitioners are moving vendors in the Boat house premises at Ootacamund for the past several years. The 5th respondent had issued a temporary identity card to the petitioners for selling the items. The petitioners have started ''Padagu Illam Anaithu Viyabarigal Sangam'' and the same was registered during the year 2011. In the year 2000, the 4th respondent communicated through the 5th respondent to build a temporary structure in the identified place for measuring an extent of 67 sq.ft. as small stall, for whcih, the petitioners, was regularly paying rent and the 5th respondent has issued the receipt. Thereafter, based on the representation, the respondents 4 & 5 have arranged a permanent stall for the vendors. The same was not convenient for the vendors. Therefore, the petitioners requested the respondents 4 & 5 to arrange the alternative site and the said request was also pending consideration before the respondents. In the above circumstances, some persons had approached the 5th respondent and seeks permission to put moving vendor. Based on the representation, the 5th respondent had given temporary Identity Card for a period of three months to made seasonal business. After expiry of the said term, it seems that they had given representation to issue permanent vendor card before the 5th respondent. However, it was rejected by the 5th respondent. Challenging the same, those persons had filed a writ petition No.13871 of 2021 and batch before this Court. This Court has passed the following interim order:



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'Considering the rival submissions, this Court, in order to give quietus to the issue involved herein, direct the 3rd respondent vix., Commissioner cum Managing Director, Tamil nadu Tourism Development Corporation to conduct inspection and identify the unauthorized construction/shops in the boat house area and if so, the same may be removed forthwith.....''

On the strength of the above order dated 24.09.2021, the 3rd respondent had inspected the premises and removed the unauthorized buildings and shops. As a result, the 5th respondent passed the impugned order and directed the petitioners to remove the unauthorized shops on or before 24.10.2021. Challenging the same, the present writ petitions have filed before this Court seeking for appropriate relief.

4. The learned counsel for the petitioners submitted that admittedly the 5th respondent has issued a moving vendor identity card to the petitioners. The petitioners are selling small articles in the Boat house premises at Ootacamund. The 5th respondent, after receiving money from the petitioners, has put up a construction and handed over it to the petitioners and the petitioners were paying the rent regularly to the 5th respondent. Thereafter, the 5th respondent declared that the petitioners are constructed unauthorized shed without getting any permission and directed them to remove the same, which is unsustainable. Hence, the learned counsel prays to allow this petition.

5. The learned Government Advocate appearing for the respondents submitted that earlier occasion, some of the vendors have filed a writ petition for similar dispute in W.P.No.13871/2021 and batch and this Court passed an interim order dated 24.09.2021 issued a direction to the 3rd respondent therein to conduct inspection and remove the unauthorized constructions. In compliance of the said order, the third respondent therein filed a status report before this Court by stating that there were 63 shops and all the 63 shops were evicted. Out of the above 63 moving vendors, 48 moving vendors are from earlier period remaining 15 vendors are temporary moving vendors.

6. Heard the learned senior counsel for the petitioners and the learned Government Advocate appearing on behalf of the respondents and perused the materials available on record.

7. The learned senior counsel for the petitioners submitted that after receipt of money from the petitioners, the 5th respondent has put up the temporary shops and handed over to the petitioners, for which, they are paying rent regularly. To substantiate this submission, the learned Additional Government Pleader submitted that due to high traffic congestion in and around boat house area with swelling number of vehicular traffic choking the parking area, the pedestrians/public are finding extremely difficult to find



their way to the boat house area as the vendors are occupying the space. Because of the public nuisance created by the moving vendors, the tourists are parking their vehicle on the road thereby obstructing free flow of vehicles. For the similar issue, some vendors have filed a writ petition before this Court in W.P.No.13871 of 2021 and vide order dated 24.09.2021 this Court has passed an interim order to evict the unauthorized construction in the said premises. Due to which, the 5th respondent has rightly issued notice to the moving vendors, who built a unauthorized shop/construction in the boat house premises. On a careful perusal, the petitioners have not placed any records that the 5th respondent was put up a construction and received money. Considering all these aspects, this Court does not find fault with the impugned order passed by the 5th respondent and no interference is required. However, the petitioners are directed to carry on their business in the locality outside the boat house premises as per their ID card period.

8. Accordingly, these writ petitions are dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Principal Secretary to Government,
Tourism, Culture and Religious Endowment Department,
Secretariat, Chennai-9.
- 2.The Commissioner & Managing Director,
Tamil Nadu Tourism Development Corporation,
Tourism Complex, No.2, Wallajah Road,
Triplicane, Chennai-2.
- 3.The District Collector,
Udhagamandalam,
Nilgiris District.
- 4.The Regional Manager,
Tamil Nadu Tourism Development Corporation,
Udhagamandalam, Nilgiris District.
- 5.The Manager,
Boat House,
Udhagamandalam,
Nilgiris District.



+10ccs to Mr.S.V.Vishwanth, Advocate SR. Nos.61258 to 61267
+1cc to the Government Pleader SR. No.60673

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NR (CO)
PR (10/12/2021)