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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.24825, 24833, 24842, 24828, 24832,
24836, 24837, 24839 & 24843 of 2021
and

WMP.Nos.26118, 26127, 26117, 26104, 26108,
26119, 26120, 26122, 26126, 26123, 26133,
26132, 26109, 26111, 26113, 26114,
26105 & 26115 of 2021

ISMAIL	... PETITIONER IN W.P.NO.24825 OF 2021
RANGARAJ	... PETITIONER IN W.P.NO.24833 OF 2021
M.RAJI	... PETITIONER IN W.P.NO.24842 OF 2021
M.UMER	... PETITIONER IN W.P.NO.24828 OF 2021
AMANULLAH	... PETITIONER IN W.P.NO.24832 OF 2021
JOHNSON	... PETITIONER IN W.P.NO.24836 OF 2021
LATHA	... PETITIONER IN W.P.NO.24837 OF 2021
NOOR MOHAMMED	... PETITIONER IN W.P.NO.24839 OF 2021
VICTORIA	... PETITIONER IN W.P.NO.24843 OF 2021

Versus

1. The Principal Secretary to Government,
Tourism, Culture and Religious Endowment Department,
Secretariat, St.Fort George,
Chennai-600 001.
2. The Commissioner & Managing Director,
Tamil Nadu Tourism Development Corporation,
Tourism Complex, No.2, Wallajah Road,
Triplicane, Chennai-600 002.
3. The District Collector,
Collectorate
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 WPs



Common Prayer: These Writ Petitions filed under Article 226 of the Constitution of India, praying 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 quashing the same and for consequential direction to the 5th respondent to restore the petitioners premises.

In all Writ Petitions:

For Petitioners : Mr.V.Raghavachari
for Mr.K.Chozhan

For Respondents : Mr.Gokul Krishnah
Govt. Advocate

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 challenging the impugned order in No.151/Pa.E/Udagai/2021 dated 22.10.2021 passed by the fifth respondent and for quashing the same and for consequential direction to the 5th respondent to restore the petitioners' premises.

3. Brief facts of the case are as follows:-

The petitioners are moving vendors in the Boat house premises at Udagamandalam for the past several years. After a long gap of years, the respondents had accredited and granted license and allotted portions to run the their business. In the year 1999, the fifth respondent had issued a temporary identity card to the petitioners for selling the items. In the year 2000, the fourth respondent/Regional Manager communicated through the 5th respondent to build up a temporary structure in the identified place measuring to an extent of 6x7 sq.ft. as a small stall, for which, the petitioners, were regularly paying rent for a sum of Rs.100/- to the 5th respondent and receipts were also issued for the same. Thereafter, the petitioners have started 'Padagu Illam Anaithu Viyabarigal Sangam' and the same was registered in the year 2011. Subsequently, based on the representation, the respondents 4 and 5 have arranged a permanent stall for the vendors vide Circular No.545/pae/16, dated 26.07.2016 directing the petitioners' Sangam to switch over the business. But, the same was not convenient for the vendors. Hence, the petitioners requested the respondents 4 and 5 to arrange the alternative site and the said request was also pending before the respondents for consideration. In the above circumstances, some persons had approached the 5th respondent and sought permission to put up a construction for moving vendors. Based on the representation, the 5th respondent had given temporary Identity Card for a period of three months to make seasonal business. After expiry of the said terms, it seems that they



had given a representation before the 5th respondent requesting for permanent-moving vendor Identity Card and the same was rejected by the 5th respondent. Aggrieved by the said order, those persons had filed a Writ Petition No.13871 of 2021 etc., batch before this Court. This Court vide order dated 24.09.2021 passed the following interim order:

'Considering the rival submissions, this Court, in order to give quietus to the issue involved herein, directs the 3rd respondent viz., 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 No.151/Pa.E/Udagai/2021, dated 22.10.2021 directing the petitioners to remove the unauthorized shops on or before 24.10.2021. Aggrieved over the same, the present Writ Petitions have been filed seeking for appropriate relief.

4. The learned counsel for the petitioners submitted that it is an admitted fact that the 5th respondent has issued a moving vendor Identity card to the petitioners. The petitioners are selling small articles on the Boat house premises at Udagamandalam. Subsequently, after receiving money from the petitioners, the fifth respondent had put up a construction and handed over it to the petitioners and they were paying rent regularly to the fifth respondent. Thereafter, the 5th respondent declared that the petitioners are constructing unauthorized shed without getting any permission and directed them to remove the same, which is unsustainable. Therefore, he prays to allow these petitions.

5. The learned Government Advocate appearing for the respondents submitted that on earlier occasion, some of the vendors have filed a writ petition for similar issue in W.P.No.13871/2021 etc., batch cases and this Court passed an interim order dated 24.09.2021 directing to the 3rd respondent therein to conduct an enquiry and remove the unauthorized construction in the Boat House premises. In compliance of the said order, the third respondent therein filed a status report before this Court stating that there are 63 shops, out of the above, 63 moving vendors, 48 moving vendors vacated from the Boat House premises. The rest of the 15 vendors are still in force as temporary moving vendors.

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

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

7. On perusal of the records, it is seen that the petitioners are moving vendor in the Boat house premises at



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Udagamandalam for the past several years. They were given ID cards. It is alleged after receiving of money from the petitioners, the 5th respondent has put up the temporary shops and handed over it to the petitioners, for which, they are paying rent regularly. To repudiate his submission, the learned Government Advocate contended 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.

8. For the similar issue, some vendors have filed a writ petition in W.P.No.13871 of 2021. This Court by order dated 24.09.2021, had passed an interim order to evict the unauthorized construction on the said premises. Due to which, the 5th respondent has rightly issued a notice to the moving vendors, who built a unauthorized shops/constructions on the Boat house premises. On a careful perusal, the petitioners have not placed any records that the 5th respondent has put up a construction after receiving money.

9. Considering all these aspects, this Court does not find any fault with the impugned order dated 22.10.2021 passed by the fifth respondent and this Court does not find any reason to interfere the above impugned order.

10. However, the petitioners are directed to carry on their business in the locality outside the Boat house premises as moving vendors till the expiry of the Identity Card.

11. Accordingly, all the writ petitions are dismissed. Consequently, connected Miscellaneous Petition are closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gba

To

1. The Principal Secretary to Government,
<https://hcservices.ecourts.gov.in/hcservices/>,
Tourism, Culture and Religious Endowment Department,
Secretariat, St.Fort George,
Chennai-600 001.



2. The Commissioner & Managing Director,
Tamil Nadu Tourism Development Corporation,
Tourism Complex, No.2, Wallajah Road,
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3. The District Collector,
Collectorate
Udhagamandalam, Nilgiris District.

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

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

+9 ccs to Mr.S.C.Viswanath, Advocate Sr.NO. 61268 to 61276

+1 cc to Government Pleader Sr.NO. 61497,61537

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CP(CO)

A.SK(30.12.2021)

24.11.2021