



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.27343 of 2021

and

W.M.P.No.28854 of 2021

A.Moorthy

...Petitioner

Vs.

1. The Assistant Executive Engineer
(O&M/ Montieth Road/ CEDC/ TAGEDCO)
No.13, East Mayor Ramanathan Street,
Chennai - 600 031.
2. The State Commissioner for
Differently Abled,
O/o. State Commissioner for Differently Abled,
Kamarajar Salai, Chennai - 600 005.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus or other appropriate writ or order in the nature of writ calling for the records relating to the proceedings of the 1st respondent in Lr.No.A.EE/02M/Pantheon Salai Ko.Tha./No.171/2021 dated 27.10.2021 (served on 18.11.2021) and quash the same and forbearing from the disconnecting Electricity Service Connection in S.C.No.143-010-1112 of the petitioner's bunk shop at No.149, Montieth Road, Egmore, Chennai - 600 008.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.L.Jai Venkatesh



WEB

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari and Mandamus to call for the records relating to the proceedings of the 1st respondent dated 27.10.2021 and quash the same and consequently to forbear from the disconnecting Electricity Service Connection in S.C.No.143-010-1112 of the petitioner's bunk shop.

2. On the consent of the learned counsel appearing on either side, the present Writ petition is taken up for final disposal.

3. The case of the petitioner is that he is differently abled and having 80% disability and he is running a bunk shop at No.149, Montieth Road, Egmore, Chennai - 600 008 and selling tea and other allied food items. The petitioner is running the said bunk shop for the past several years and has obtained the electricity service connection from the 1st respondent and paying the electricity charges regularly without any default. While so, due to frequent disturbance from the Corporation of Chennai, the petitioner filed a Writ petition in W.P.No.8545 of 2017 for issuance of direction to the respondents therein to consider his representation dated 05.04.2017 and issue him with Certificate of Vending and the Division Bench of this Court vide its order dated 10.04.2017, disposed of the petition and directed the petitioner to approach the Vending Committee for obtaining the license. In pursuant to the order of this Court, the petitioner appeared before the Vending Committee and submitted an application for issuance of Vending license and the same is pending till date.

4. However, in the mean while, 1st respondent has served a notice dated 18.11.2021 to the petitioner stating that the petitioner has to submit the No Objection Certificate (in short NOC) obtained from the Chennai Corporation within a period of 15 days. On receipt of such notice, the petitioner approached the officials of the concerned Department of Chennai Corporation, however, he was informed that, at present the Chennai Corporation is not issuing NOC to obtain electricity for bunk shop and only after the Township Vending Committee decides the issue of the Certificate of Vending to the street / bunk shop vendors as per the Street Vendors (Protection of Livelihood Regulation) Act, 2014, they will issue NOC to the street/bunk shop vendors. However, the said application for obtaining Vending license in order to obtain NOC from the Chennai Corporation is pending before the Vending Committee. Hence, challenging the impugned notice dated 27.10.2021 issued by the 1st respondent, and seeking for direction to forbear the respondent from disconnecting the Electricity Service Connection in S.C.No.143-010-1112 to the petitioner's bunk shop, this Writ petition is filed.



5. The learned counsel for the petitioner submitted that the petitioner's application for issuance of license is pending before the Vending Committee appointed by this Court, however, till date no orders have been passed on the same. While such being the situation, the 1st respondent is continuously insisting the petitioner to produce the NOC issued by the Chennai Corporation, which is not sustainable one. Hence, he submitted that, it would suffice if this Court issues direction to the 1st respondent not to insist upon the NOC issued by the Chennai Corporation till the disposal of the petitioner's application for issuance of license which is pending before the Vending Committee.

6. The learned counsel appearing for the 1st respondent has no serious objection over the prayer sought for by the petitioner and he fairly conceded that, the respondent will not insist upon the NOC till the disposal of the petitioner's application pending before the Vending Committee.

7. Heard the arguments advanced by the learned counsel on either side.

8. Considering the facts and circumstances of the case, admittedly the petitioner is a road side vendor and this Court already directed the petitioner to file appropriate application before the Vending Committee for obtaining the license and the same is pending before the Vending Committee for disposal. In the mean while, the 1st respondent issued impugned order dated 27.10.2021, insisting upon the NOC issued by the Chennai Corporation, is not sustainable. Hence, this Court has no hesitation to quash the impugned order passed by the 1st respondent vide its proceedings in Lr.No.A.EE/ 02M/ Pantheon Salai Ko.Th./No.171/2021 dated 27.10.2021. Accordingly, the impugned order is quashed. However, liberty is granted to the 1st respondent to take decision after the disposal of the petitioner's application which is pending before the Vending Committee.

9. Accordingly, the writ petition is allowed with the above terms. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

skt



To

1. The Assistant Executive Engineer
(O&M/ Montieth Road/ CEDC/ TAGEDCO)
No.13, East Mayor Ramanathan Street,
Chennai - 600 031.
2. The State Commissioner for
Differently Abled,
O/o. State Commissioner for Differently Abled,
Kamarajar Salai, Chennai - 600 005.

+1cc to Mr.L.Chandrakumar, Advocate SR. No.69003
+1cc to Mr.L.Jai Venkatesh, Advocate SR. No.69155

W.P.No.27343 of 2021
and
W.M.P.No.28854 of 2021

PMK (CO)
PR (14/02/2022)