



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2021

CORAM

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

W.A.NO.3320 OF 2019 AND
C.M.P.NO.21329 OF 2019

Shankaralingam

.. Appellant/Petitioner

Vs

1. The Special Commissioner
for Handicapped,
Office of the State Commissioner of Disabled
No.15/1, Model School Road,
Thousand Lights,
Chennai - 600 006.
2. The Chief Executive Officer,
Office of the Cantonment Board,
Parankimalai, St.Thomas Mount,
Chennai - 16
3. The Superintendent of Police,
Kancheepuram District,
Kancheepuram.
4. The Inspector of Police,
Pallavaram Police Station,
Chennai - 600 016.

.. Respondents/Respondents

PRAYER:- Appeal filed under Clause 15 of Letters Patent against the order dated 27.06.2019 made in W.P.No.11422 of 2019.

PRAYER IN W.P.NO.11422 OF 2019:-

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in proceedings STM/REV/0366 dated 19.02.2019 quash the same and consequently direct the office of the 2nd respondent to constitute Town Vending Committee as contemplated under section 22 of the Street Vendors (Protection of Livelihood And regulation of Street Vending) Act



2014, and consequently grant certificate of vending to the petitioner to run the bunk shop selling Tea, Coffee, Snacks (Measurement about 8x6) in the line of GST road near Tirisulam main bus stop, Chennai-43 under Section 4 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and till such time not to disturb with the running of the Petitioner's bunk shop in the line of GST Road near Tirisulam main bus stop, Chennai-43.

For Appellant : Mr.Lourdu Paul Maurya

For Respondents : No appearance for R1

Mr.C.Mohan
for M/s.King and Patridge for R2

Mr.S.John J Raja Singh
Government Advocate for R3 & R4

JUDGMENT

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

This appeal has been preferred against the order of the learned Single Judge, who upon considering the facts available, declined to grant the relief sought for as it is not open to the appellant to insist upon vending opposite to the Airport which is not permissible for security reasons.

2. Learned counsel appearing for the appellant submitted that the appellant is entitled for alternative accommodation and is a physically challenged person.

3. Placing reliance upon the communication dated 16.04.2019, Mr.Mohan, learned counsel appearing for the second respondent submitted that as of now there is no temporary stall or bunk which is in existence which would come under the 10% quota. The process is only by tender. As and when shops are available, the request of the appellant would be considered. A memo has also been filed in tune with the aforesaid submission, wherein it has been stated as follows:

2. Accordingly, the office of the St.Thomas Mount cum Pallavaram Cantonment Board had examined the issue and is pleased to report to this Hon'ble Court that 10% reservation for persons with disability upon production of disability certificate issued by the Commissioner for disability and satisfied by this office will be provided in tenders called for allotment of shops.



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The tenders for allotment of shops/temporary structures shed will be called once the existing period is completed and shall be as per norms. This shall not be seen or construed as an admission to any right of the appellant herein or similarly placed persons and is purely voluntary at the instance of this Hon'ble Court.

3.The above memo shall be taken on record and this Hon'ble Court may be pleased to close the writ appeal by confirming the order of the single Judge dated 27.06.2019 in W.P.No.11422 of 2019 and thus render justice.

4. In view of the above, we do not find any reason to interfere with the order of the learned Single Judge. There is no vested right for the appellant to vend through his push cart over the place which is not feasible for giving any licence due to security reasons. The provisions of Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 cannot be pressed into service against the second respondent, who at best, can give permission for temporary stalls and bunks. When there is no such shop or stall is available, one cannot insist to give it to the appellant.

5. In such view of the matter, the writ appeal stands disposed of while confirming the order of the learned Single Judge to consider the case of the appellant in tune with the communication dated 16.04.2019 and the memo filed on behalf of the second respondent, provided the appellant takes part in the tender process. The cost imposed by the learned Single Judge stands removed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1. The Special Commissioner
for Handicapped,
Office of the State Commissioner of Disabled
No.15/1, Model School Road,
Thousand Lights, Chennai - 600 006.



2. The Chief Executive Officer,
Office of the Cantonment Board,
Parankimalai, St.Thomas Mount,
Chennai - 16.

WEB COPY

3. The Superintendent of Police,
Kancheepuram District,
Kancheepuram.

4. The Inspector of Police,
Pallavaram Police Station,
Chennai - 600 016.

+1cc to M/s.King and Patridge, Advocate, S.R.No.31061

+1cc to Mr.Lourdu Paul Maurya, Advocate, S.R.No.31089

+1cc to the Government Pleader, S.R.No.31421

W.A.NO.3320 OF 2019

SSD(CO)

PBS(28/07/2021)