



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.6799 of 2022

WMP No.6875 of 2022

S.Singaram

... Petitioner

Vs.

1. The Government of Tamil Nadu
Department of Municipal Administration and Water Supply
Rep. by its Secretary
Fort St. George, Chennai - 600 009.
2. The Commissioner
Corporation of Chennai
Ribbon Building, Chennai - 600 003.
3. The Zonal Officer
Zone- 13, Corporation of Greater Chennai
Adayar, Chennai - 600 020.
4. The Deputy Commissioner of Police (Traffic)
Deputy Commisionarate
Adayar, Chennai - 600 020.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of Declaration declaring that the formation vending zone is as illegal and void and to direct the second and third respondents to form Town Vending Committee in view of the Section 22 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 to find out the vending and non-vending zones in view of the Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Schemes and Rules, 2015 in proper perspective and also to issue vending certificate to the Street Vending Contemplated Section 4 of the Act, 2014.

For the Petitioner : Mr.P.Vijendran



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For the Respondents : Mr.P.Muthukumar
State Government Pleader
For respondents 1 and 4

Mrs. Karthika Ashok
For respondents 2 and 3

ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

The writ petition has been filed seeking a declaration that the formation of Town Vending Committee under Section 22 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 to be illegal .

2. Learned counsel for the petitioner submits that the respondents have constituted a Town Vending Committee under the Act of 2014 by nominating the Executive Engineer as the Chairman and Assistant Revenue Officer and other elected representatives as the Members. As per Section 22 of the Act, a Town Vending Committee should consist of Municipal Commissioner or the Chief Executive Officer, as the case may be, apart from the other Members.

3. Sections 20 and 22 of the Act of 2014 are relevant and therefore, the same are quoted hereunder:

"20. Redressal of grievances or resolution of disputes of street vendors.—

(1) The appropriate Government may constitute one or more committees consisting of a Chairperson who has been a civil judge or a judicial magistrate and two other professional having such experience as may be prescribed for the purpose of deciding the applications received under sub-section (2):

Provided that no employee of the appropriate Government or the local authority shall be appointed as members of the committee.

(2) Every street vendor who has a grievance or dispute may make an application in writing to the committee constituted under sub-section (1) in such form and manner as maybe prescribed.

(3) On receipt of grievance or dispute under



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sub-section (2), the committee referred to in sub-section (1) shall, after verification and enquiry in such manner, as may be prescribed, take steps for redressal of such grievance or resolution of such dispute, within such time and in such manner as may be prescribed.

(4) Any person who is aggrieved by the decision of the committee may prefer an appeal to the local authority in such form, within such time and in such manner as may be prescribed.

(5) The local authority shall dispose of the appeal received under sub-section (4) within such time and in such manner as may be prescribed:

Provided that the local authority shall, before disposing of the appeal, give an opportunity of being heard to the aggrieved person.

22. Town Vending Committee.-

(1) The appropriate Government may, by rules made in this behalf, provide for the term and the manner of constituting a Town Vending Committee in each local authority:

Provided that the appropriate Government may, if considers necessary, provide for constitution of more than one Town Vending Committee, or a Town Vending Committee for each zone or ward, in each local authority.

(2) Each Town Vending Committee shall consist of:-

(a) Municipal Commissioner or Chief Executive Officer, as the case may be, who shall be the Chairperson; and

(b) such number of other members as may be prescribed, to be nominated by the appropriate Government, representing the local authority, medical officer of the local authority, the planning authority, traffic police, police, association of street vendors, market associations, traders associations, non-governmental organisations, community based organisations, resident welfare associations, banks and such other interests as it deems proper;

(c) the number of members nominated to represent the non-governmental organisations and



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the community based organisations shall not be less than ten per cent.;

(d) the number of members representing the street vendors shall not be less than forty per cent. who shall be elected by the street vendors themselves in such manner as may be prescribed:

Provided that one-third of members representing the street vendors shall be from amongst women vendors: Provided further that due representation shall be given to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, minorities and persons with disabilities from amongst the members representing street vendors.

(3) The Chairperson and the members nominated under sub-section (2) shall receive such allowances as may be prescribed by the appropriate Government."

4. The constitution of Town Vending Committee does not consist of the Municipal Commissioner, but, an Executive Engineer to be Chairperson and therefore, the constitution of the Town Vending Committee being in violation of Section 22 of the Act of 2014, deserves to be struck down.

5. A reference to the Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme and Rules, 2015 has also been made to show and prove that the constitution of the Town Vending Committee is not as per the provisions of law.

6. The writ petition has been contested by learned Standing Counsel for the Corporation. It is submitted that the constitution of the Town Vending Committee has been made in accordance with the provisions of law and for that, Section 22 of the Act of 2014 has not been offended. Section 22(2)(a) provides for Municipal Commissioner or the Chief Executive Officer to be the Chairperson of the Town Vending Committee, but the Municipal Commissioner of Chennai Municipal Corporation was not made as the Chairperson of the Town Vending Committee. It is for the reason that there exists conflict between Sections 20 and 22 of the Act of 2014, where the Municipal Commissioner has been assigned two roles. Under Section 22, he has been made as the Chairperson of the Town Vending Committee, while under Section 20, he has been authorised to redress the grievances or to resolve the disputes of the street vendors. Therefore, despite time given by the Court, re-formation of the Town Vending Committee could not be undertaken. Rather, the matter has been sent to the Government.



7. It is submitted that the existing Town Vending Committee has taken many decisions to give effect to the provisions of the Act of 2014. Therefore, any interference in the constitution of the Town Vending Committee would affect its decisions also. Thus, a prayer is made not to interfere with the order/notification for the constitution of the Town Vending Committee and to dismiss the writ petition.

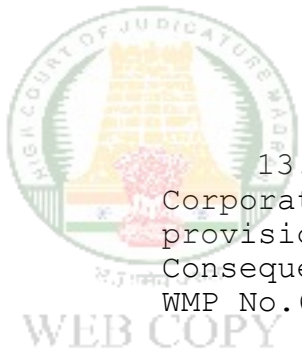
8. We have considered the rival submissions and perused the records.

9. Section 22(2)(a) of the Act of 2014 states that the Municipal Commissioner or the Chief Executive Officer shall be the Chairperson of the Town Vending Committee. However, the constitution of the Town Vending Committee made by the respondents does not include the Municipal Commissioner, rather the Executive Engineer has been made the Chairperson. The order/notification for constitution of the Town Vending Committee, without including the Municipal Commissioner as the Chairperson, rather keeping the Executive Engineer to be the Chairperson, is in conflict with Section 22 of the Act of 2014.

10. The respondent Municipal Corporation was given time on earlier occasions to seek instructions and if possible, to come out with a fresh order/notification for constitution of a Committee strictly as per the provisions of the Act of 2014. The matter was adjourned on many dates for it. Learned Standing Counsel for the Corporation submits that matter has been sent to the Government.

11. We have analysed Sections 20 and 22 of the Act of 2014 to find out whether there is any conflict, as stated by the counsel for the Municipal Corporation. We do not find any conflict between Sections 20 and 22 in reference to the power of the Municipal Commissioner. The provisions aforesaid address on different issues. In view of the above, the only reason given by the Corporation cannot be accepted.

12. In view of the above, we find constitution of the Town Vending Committee to be illegal. The challenge to it cannot be rejected only for the reason that during the intervening period, the Town Vending Committee has taken certain decisions. However, keeping the issues open in reference to the principle of de jure/de facto in regard to the decisions taken by the Town Vending Committee not constituted as per law, we hold that the constitution of the Town Vending Committee to be illegal and accordingly, the order/notification issued by the respondents is struck down.



13. The writ petition is allowed. However, it is for the Corporation to constitute a Town Vending Committee as per the provisions of law. There will be no order as to costs. Consequently, WMP No.6875 of 2022 is closed. Consequently, WMP No.6875 of 2022 is closed.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar

kpl/drm

To:

1. The Secretary
The Government of Tamil Nadu
Department of Municipal Administration and Water Supply
Fort St. George, Chennai - 600 009.
2. The Commissioner
Corporation of Chennai
Ribbon Building, Chennai - 600 003.
3. The Zonal Officer
Zone- 13, Corporation of Greater Chennai
Adayar, Chennai - 600 020.
4. The Deputy Commissioner of Police (Traffic)
Deputy Commissionerate
Adayar, Chennai - 600 020.

+1cc to Mrs. Karthika Ashok, Advocate, S.R.No.29750
+1cc to Mr.P.Vijendran, Advocate, S.R.No.29238
+1cc to the Government Pleader, S.R.No.29707

W.P.No.6799 of 2022

SSI(CO)
CT 25/05/2022