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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.7658 of 2022

and

W.M.P.No.7659 of 2022

The Tamil Nadu Educational Self
Employment Welfare Association,
Represented by its Secretary,
C.Ayyadurai,
No.24, VOC Street,
M.G.R. Nagar,
Chennai - 78.

... Petitioner

Vs.

1. The Government of Tamil Nadu,
The Department of Municipal Administration
And Water Supply,
Represented by its Secretary,
Fort St.George,
Chennai - 600 009.
2. The Commissioner,
The Corporation of Chennai,
Ribbon Building,
Chennai - 600 003.
3. The Zonal Officer,
Zonal Office, Zone-5,
Greater Chennai Corporation,
Basin Bridge Road,
Chennai - 21.
4. The Zonal Officer,
Zonal Office, Zone-8,
The Greater Chennai Corporation,
No.36B/12B, Pulla Avenue Road,
Shenoy Nagar, Chennai - 30.
5. The Zonal Officer,
Zonal Office, Zone - 9,
The Greater Chennai Corporation,
No.8, 4th Cross Street,
Lake Area, Nungambakkam,
Chennai 34.



6. The Zonal Officer,
Zonal Office, Zone-10,
No.11/25, Dr.Ambedkar Road,
Corporation Colony,
Kodambakkam,
Chennai - 24.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Declaration declaring that the identified vending zones which are functioning under the respondents No.3 to 6 are as illegal and void and to direct the 2nd to 6th 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 Vendors Contemplated Section 4 of the Act, 2014.

For Petitioner : Mr.P.Vijendran

For Respondents:

For R1 : Mr.S.John J Raja Singh
Additional Government Pleader

For R2 to R6 : M/s.P.T.Rama Devi
Standing Counsel

ORDER

The petitioner has filed this writ petition for the issuance of a Writ of Declaration to declare that the identified vending zones which are functioning under the respondents No.3 to 6 are as illegal and void and to direct the second to sixth 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 Vendors Contemplated Section 4 of the Act, 2014.

2. The learned Additional Government Pleader appearing on behalf of the first respondent fairly submits that the issue is



now covered by the decision of the Hon'ble First Bench of this High Court in the case of S.Singaram Vs. The Government of Tamil Nadu, Department of Municipal Administration and Water Supply and Ors. in W.P.No.6799 of 2022. The operative portion from the said order reads as under:

"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



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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."

3. In view of the above, this writ petition stands allowed in the light of the decision of the Hon'ble First Bench of this High Court in W.P.No.6799 of 2022. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

rgm

To

1. The Secretary,
The Government of Tamil Nadu,
The Department of Municipal Administration
And Water Supply,
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2. The Commissioner,
The Corporation of Chennai,
Ribbon Building, Chennai - 600 003.
3. The Zonal Officer,
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Corporation Colony,
Kodambakkam, Chennai - 24.

+1cc to M/s.P.T.Ramadevi, Standing Counsel GCC, S.R.No.35567

+1cc to Mr.P.Vijendran, Advocate, S.R.No.35672

+1cc to the Government Pleader, S.R.No.35944

W.P.No.7658 of 2022
and
W.M.P.No.7659 of 2022

RLD (CO)
UMA (04/07/2022)