



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.12072 of 2022

Ambathur Estate Salaiyora Sirukdai
Vyaparigal Sangam,
(Ambathur Estate Roadside Petty Shop
Treader's Asociation)
rep. by its Secretary,
No.43, Coramandal Town,
SIDCO Menambedu Road,
Pattaravakkam Railway Station,
Chennai-600 098.

.. Petitioner

Vs

1.The Secretary to Government,
Micro, Small and Medium Enterprises Department,
Government of Tamil Nadu,
Secretariat,
Chennai - 600 009.

2.The Managing Director,
SIDCO, Guindy,
Chennai-600 032.

3.The Administrative Director/Branch Manager,
SIDCO, Ambathur Industrial Estate,
Chennai-600 058.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records relating to the proceedings of the third respondent in Rc.No.1332/A6/2004 dated 7.11.2019 (served on 13.4.2022) and quash the same and consequently forbear the third respondent, their men, officials, servants or agents acting on their behalf, claiming through or under them from interfering with the running of street vending/mobile vending/pushcart vending business of the members of the petitioner's association on the roadside margin of Ambathur Industrial Estate, SIDCO, Chennai-600 058 by using the LPG Gas Stove, except by following the provisions of the Street Vendors (Protection of Livelihood and Regulation) Act, 2014.



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For the Petitioner : Mr.L.Chandrakumar

For the Respondents : Mr.P.Muthukumar
State Government Pleader
for respondent No.1

: Mr.M.J.Jaseem Mohamed
and Mr.Muhammed Mudasir Ali
for respondent Nos.2 and 3

ORDER

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

By this writ petition, a challenge is made to the Circular dated 07.11.2019 issued by the respondent Tamil Nadu Small Industries Development Corporation Limited, Ambattur, Chennai.

2. Learned counsel for the petitioner submitted that the third respondent issued the Circular to remove the encroachment in the shape of shops, bunks and movable carts by giving prior notice as per the provisions of law, going against the order of the Apex Court while finally disposing of the appeal by its order dated 18.05.2018 in Petition for Special Leave to Appeal (C) No.9857 of 2018 [Anbu Nilayam Physically Handicapped Self Employer Welfare Association v. The State Commissioner for Differently Abled and others]. Thus, the third respondent could not have issued the Circular impugned herein.

3. It is further submitted that in the earlier writ petition, being W.P.No.31004 of 2009, though the Circular aforesaid was not challenged, an interim order was operating. However, the writ petition was finally disposed of finding that the Circular dated 07.11.2019 was not challenged and, accordingly, the present writ petition has been filed. Therefore, the respondents be restrained to take action pursuant to the Circular under challenge and the members of the petitioner's association may not be dispossessed from the shops and bunks, where they are carrying on business.

4. We have considered the submissions made by learned counsel for the petitioner and perused the materials available on record.

5. The challenge to the Circular dated 07.11.2019 has been made precisely in reference to the order dated 18.05.2018 passed by the Apex Court in Petition for Special Leave to Appeal (C) No.9857 of 2018. For ready reference, the said order is quoted hereunder:



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"Heard learned counsel for the parties.

In view of Section 12 of the Tamil Nadu Industrial Township Area Development Authority Act, 1997, the SIDCO has to exercise the functions of the local authority under Section 3 read with Section 22 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

In this view of the matter, the said authority may carry out the survey of the area in question within one month from today and thereafter proceed in accordance with law.

The special leave petition is disposed in above terms.

Pending applications, if any, shall also stand disposed of."

6. The order quoted above refers to the power of the respondents under Section 12 of the Tamil Nadu Industrial Township Area Development Authority Act, 1997. The SIDCO can exercise the functions of the local authority under Section 3 read with Section 22 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. The survey was ordered to be conducted within four weeks and the aforesaid order has been complied with. In view of the above, we do not find that the Circular impugned herein has been issued going against the direction of the Apex Court. Rather, the respondents were not restrained from issuing the Circular dated 07.11.2019. In the light of the aforesaid, we find that the impugned Circular is not offending the order of the Apex Court supra.

7. So far as the other issue in reference to the interim order passed in the earlier writ petition filed by the petitioner is concerned, it would not survive on the disposal of the main writ petition. Thus, even the second ground is not made out to challenge the impugned Circular.

8. It is otherwise found that the place used by the members of the petitioner's association comes under the industrial area and, thus, cannot be used for any purpose other than for which the area has been earmarked. Shops and bunks cannot be allowed to operate in the industrial area and, therefore, the impugned Circular was rightly issued to maintain the area for the purpose it was earmarked. Therefore, we find no ground warranting interference with the impugned Circular. It is more so when the area in question was declared as non-vending zone and yet the members of the petitioner association are operating the shops



and bunks in violation of the Circular.

9. The writ petition fails and it is dismissed. There will be no order as to costs. Consequently, W.M.P.Nos.11508 and 11511 of 2022 are closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The Secretary to Government,
Micro, Small and Medium Enterprises Department,
Government of Tamil Nadu,
Secretariat,
Chennai - 600 009.
- 2.The Managing Director,
SIDCO, Guindy,
Chennai-600 032.
- 3.The Administrative Director/Branch Manager,
SIDCO, Ambathur Industrial Estate,
Chennai-600 058.

+1cc to Mr.R.Kamaraj, Advocate, S.R.No.38628
+1cc to the Government Pleader, S.R.No.38805

W.P.No.12072 of 2022

AD(CO)
SB(30/06/2022)