



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.22468 of 2018

and

W.M.P. No. 26329 of 2018

D.Suresh,
S/o.Dharmarajan

... Petitioner

Vs.

1. The Director of Medical and
Rural Health Service,
3rd Floor, DMS Complex,
Anna Salai, Teynampet,
Chennai-600 018.
2. The Joint Director of Medical
and Rural Health Service,
Salem, Salem Dt.
3. The Chief Engineer,
Public Works Department,
Chepauk, Chennai.
4. The Dean,
District Head Quarters Govt. Hospital,
Mettur Dam, Salem Dt.
5. The Superintendent of Hospital,
District Headquarters Govt. Hospital,
Mettur Dam, Salem Dt.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the entire records connected with the proceedings of the impugned order passed by the 5th respondent in Na.Ka.No.2050/K2/2018 dated 18.08.2018 and quash the same, consequently direct the 1st respondent to permit the petitioner to run the Kiosk in the 4th respondent premises by considering his renewal application dated 24.05.2018.



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For Petitioner : Mr.K.Thilageswaran
For Respondents : Mr.E.Sundaram,
Government Advocate for
R1, R2, R4 & R5

Mrs.Meera Arumugam,
Addl. Govt. Pleader for R3

O R D E R

(The case has been heard through video conference)

This Writ Petition has been filed challenging the order passed by the 5th respondent directing the petitioner to vacate Naesey Snack Kiosk run by him in the 5th respondent, District Headquarters Government Hospital at Mettur Dam.

2. The grievance of the petitioner is that, the petitioner is running a small kiosk shop for vending tea and coffee in the 5th respondent District Headquarters Government Hospital, Mettur Dam from the year 2001 and his license has been renewed by the authority periodically upto 2018. Now, all of sudden, without any notice whatsoever, the 5th respondent issued impugned order directing the petitioner to vacate kiosk shop. According to the petitioner, he is eking out his livelihood only from the income derived from kiosk shop. Now, without any notice whatsoever, the 5th respondent cannot direct him to vacate the shop. Hence, challenging the order, the present Writ Petition has been filed.

3. Mr. K.Thilageswaran, learned counsel appearing for petitioner would submit that, now the petitioner is aged about 48 years and he is running the kiosk shop from the year 2001 maintaining hygienic condition. Absolutely, no complaint is made against him about the maintenance of hygienic condition. The learned counsel would further submit that, in the year 2015, the Government issued G.O. regarding hygienic condition to be maintained in the canteen run inside the hospital premises and he is ready and willing to comply with the condition imposed in the G.O. He would also submit that, now he has also applied for renewal of license, that application is pending. In the said circumstances, without considering the petitioner's application for renewal of license, the 5th respondent issued the impugned order. The learned counsel relying upon the order passed by this Court in W.P. No.14593 of 2015, dated 04.07.2018, submitted that, while upholding the validity of G.O., this Court directed the authority to give an opportunity to the existing licensees, who are running the canteen inside the hospital premises. Therefore, the existing licensees have to be given opportunity



by the authorities to improve the quality of food and hygienic condition within a stipulated period. If they fail to do so, then only the authorities can take steps to evict them. In view of the same, the petitioner himself has come forward to improve the quality of food and hygienic condition of kiosk shop. But, without considering the same, the impugned order has been passed directing the petitioner to vacate the shop.

4. Per contra, the learned Government Advocate, appearing for 3rd respondent would submit that, the petitioner is running kiosk shop inside the hospital premises and he is not maintaining hygienic condition in that area. In those circumstances, the Government issued G.O. Ms. No. 93, Public Health and Family Welfare Department, dated 25.03.2015 directing the hospital authorities to call for fresh tenders for granting license to run kiosk shop inside the hospital premises. The petitioner's license came to be expired on 18.08.2018 itself. Hence, he was asked to vacate the shop, subsequently, the 5th respondent has called for tender to grant license as per the above said G.O., for which, the petitioner has raised his objection. If at all, the petitioner wants to run the kiosk shop in the 4th respondent hospital, he can very well participate in the tender.

5. The learned Government Advocate appearing for respondents 1, 2, 4 and 5, would submit that, the petitioner's license period expired on 18.08.2018 and the petitioner's application seeking for renewal of license for one year was also lapsed. Now, by virtue of the order passed by this Court, he is continuing the kiosk for more than four years. Considering those circumstances, if at all, the petitioner wants to extend his license, it is always open to the petitioner to file an application seeking for extension of license and if any such application is filed, the authority would consider the application for granting extension of license on merit and in accordance with law.

6. Heard and considered rival submissions made by Mr.K.Thilageswaran, learned counsel appearing for petitioner and Mr.E.Sundaram, learned Government Advocate appearing for respondents 1,2,4 and 5 as well as Mrs.Meera Arumugam, learned Addl. Government Pleader appearing for 3rd respondent and perused the records.

7. Admittedly, the petitioner is running kiosk shop inside the 4th respondent hospital premises for vending tea and snacks and his license came to be expired on 18.08.2018. Now, as per G.O. Ms.No.93, Public Health and Family Welfare Department, dated 25.03.2015, the Government issued direction to improve the quality of food and to maintain hygienic condition in the



canteen run inside the hospital premises. The Government has decided to call for tenders for granting new license, the above said G.O. was also upheld by this Court in W.P. No. 14593 of 2015, dated 04.07.2018. According to the petitioner, he is maintaining the canteen in hygienic condition and he is also ready and willing to abide by any condition imposed by the authority for improving hygienic condition, in that area and supply of quality food. He has also submitted that, now he has filed an application seeking for renewal of license, that application is still pending and the renewal application may be considered by the authority sympathetically.

8. This Court while upholding the validity of G.O. Ms. No. 93, Public Health and Family Welfare Department, dated 25.03.2015, directed the authority to give an opportunity to the existing licensees, who are running the canteen inside the hospital premises for improving the hygienic condition in that area and supply of quality of food. So far as the license period expired is concerned, this Court directed the authority to consider extension of license period and stipulate sufficient conditions for extending the contract. In the event of complying with such condition, the authority may consider for extending the contract. The relevant portion of the order reads as follows:-

"12. However, the persons, who are already running the canteen need to be given an opportunity to improve the quality of food and hygiene and other respects. In this regard, the competent authorities shall given notice to all the administrators of the canteen enabling them to improve the quality of service in all respects. If they fail to do so within a stipulated period given by the authorities, then the authorities are at liberty to take steps to evict such canteen owners.

13. In the case on hand, where the contract period is lapsed, if the authorities so decide to extend the contract, sufficient conditions in these regard shall be imposed and in the event of complying with such requirements, the contract may be extended. Therefore, it is made clear that the authorities should ensure that hygiene, quality of food ad pricing are maintained by these persons, who are running canteens in all respects and there cannot be any compromise. Periodical inspection of these canteens by the administrative staffs of the medical department are certainly required."

9. Considering those circumstances, now the petitioner's license period has been expired and if at all, the petitioner wants to seek any extension of license, he has to file an



application within a period of two weeks from the date of receipt of copy of this order and if any such application is filed, the authority is directed to consider the same and pass orders on merits within a period of four weeks thereafter. Till the order passed by the authorities, the authorities are directed not to disturb the possession of the petitioner. Accordingly, this Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Director of Medical and
Rural Health Service,
3rd Floor, DMS Complex,
Anna Salai, Teynampet,
Chennai-600 018.
2. The Joint Director of Medical
and Rural Health Service,
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3. The Chief Engineer,
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Mettur Dam, Salem Dt.
5. The Superintendent of Hospital,
District Headquarters Govt. Hospital,
Mettur Dam, Salem Dt.

+1cc to Mr.K.Thilageswaran, Advocate, S.R.No.8467
+1cc to the Government Pleader, S.R.No.8332

W.P.No.22468 of 2018

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