



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2022

CORAM :

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

W.P.No.14817 of 2022

R.Manoj

..Petitioner

Vs

1 The Commissioner,
Greater Chennai Corporation,
Ribbon Building, Chennai - 600 003.

2 The Zonal Officer,
Zone-13, Greater Corporation,
No.115, Dr.Muthulakshmi Road,
Adayar, Chennai - 600 020.

..Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus to direct the respondents and particularly to 2nd respondent to consider the representation dated 14.05.2022 (sent on 17.05.2022) and to restore the bunk shop at MRC Nagar Park, Sathiyadev Avenue, Opp to Leela Palace.

For the Petitioner : Mr.P.Vijendran

For the Respondents : Mrs.Karthika Ashok
Standing Counsel

ORDER

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

This writ petition has been filed to seek a direction on the respondents to consider the representation dated 14.05.2022 sent by the petitioner and to restore the bunk shop at MRC Nagar Park, Sathiyadev Avenue, Opposite to Leela Palace.

2.Learned counsel for the petitioner submitted that the petitioner is a disabled person and his shop was removed going against the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 [for brevity, "the Act of 2014"].A reference of Section 18 of the Act of 2014 was given to seek restoration of the shop at the same



place from where it has been removed.

3.The prayer of the petitioner has been contested by learned counsel for the respondent Corporation. She submits that the action to remove the bunk or shop was pursuant to the direction of a Division Bench of this Court in W.P.No.16009 of 2017, decided on 27.06.2017 [Raghu Raman v. The Commissioner, Corporation of Greater Chennai and another]. In view of the above, the case on hand is not falling under the Act of 2014, because the Corporation has not removed the shop on their own, rather it was in compliance of the order of this Court. The petitioner did not seek to review the order passed therein, but filed this writ petition to seek restoration of the shop at the same place, which is nothing but a footpath or platform. Hawkers cannot be permitted to obstruct the footpath or platform, and otherwise restoration of the shop at the same place would be offending the order of this Court dated 27.06.2017. Thus, a prayer is made to dismiss the writ petition.

4.At this stage, learned counsel for the petitioner submitted that if restoration of the shop at the same place is not possible, then, looking to the fact that the petitioner is a disabled person, he may be re-located elsewhere.

5.We have considered the submissions made by both parties and also perused the materials on record.

6.It cannot be disputed that the action of the respondent Corporation to remove the bunk or shop was pursuant to the order of this Court in a petition filed by Raghu Raman in W.P.No.16009 of 2017, decided on 27.06.2017. Paragraphs 1 to 3 of the said order are relevant and are quoted hereunder for ready reference:

"This writ petition, by way of public interest litigation, has been filed by a resident of M.R.C.Nagar seeking directions on the respondent authorities and in particular the first respondent to remove encroachments in M.R.C. Nagar in the R.A.Puram area and to make M.R.C.Nagar in the R.A.Puram area, a 'No-Hawking' Zone.

2.The learned Additional Government Pleader appearing on behalf of the second respondent submits that unauthorized eateries have been set up; the attention of the Corporation authorities has been drawn to the same and necessary action is to be taken.

3.The writ petition is disposed of by directing the respondent authorities to take necessary action to remove unauthorized encroachments in the



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M.R.C.Nagar area in accordance with law. The Corporation may also consider the representation of the petitioner for declaration of the area in question as a No-Hawking Zone. Such decision shall be taken in accordance with law within two weeks from the date of communication of this order."

7. In compliance of the direction quoted above, the respondent Corporation removed the shops, which includes the shop of the petitioner. Thus, their action cannot be faulted on any ground whatsoever. Rather, it was in compliance of the order of this Court. The petitioner did not seek to review the order of this Court, rather filed this writ petition to seek restoration of the shop at the same place, meaning thereby to nullify the order of a Coordinate Bench to remove the shop on the platform/footpath. The same would not be permissible and otherwise Section 18 of the Act of 2014 does not mandate restoration of the shop at the same place, but for re-location of the street vendor. Section 18 of the Act of 2014 is quoted hereunder for ready reference:

"18. Relocation or eviction of street vendors.-

(1) The local authority may, on the recommendations of the Town Vending Committee, declare a zone or part of it to be a no-vending zone for any public purpose and relocate the street vendors vending in that area, in such manner as may be specified in the scheme.

(2) The local authority shall evict such street vendor whose certificate of vending has been cancelled under section 10 or who does not have a certificate of vending and vends without such certificate, in such manner as may be specified in the scheme.

(3) No street vendor shall be relocated or evicted by the local authority from the place specified in the certificate of vending unless he has been given thirty days' notice for the same in such manner as may be specified in the scheme.

(4) A street vendor shall be relocated or evicted by the local authority physically in such manner as may be specified in the scheme only after he had failed to vacate the place specified in the certificate of vending, after the expiry of the period specified in the notice.

(5) Every street vendor who fails to relocate or vacate the place specified in the certificate of vending, after the expiry of the period specified in the notice, shall be liable to pay for every day of such default, a penalty which may extend up to two hundred and fifty rupees, as may be determined



by the local authority, but shall not be more than the value of goods seized."

8. In view of the above, we do not find any ground to order restoration of the shop. However, considering the alternate prayer made by learned counsel for the petitioner during the course of argument and the fact that the petitioner is a disabled person, the respondent Corporation shall consider his case for re-location elsewhere, as per the provisions of law within a period of four months from the date of receipt of a copy of this order. The re-location, obviously, shall be in the zone earmarked for vending.

9. The aforesaid direction is issued giving four months time looking to the fact that the Town Vending Committee constituted by the respondent Corporation has been held to be illegal and, therefore, the respondents are in the process of constituting a new Vending Committee as per the provisions of the Act of 2014.

10. With the aforesaid observation and direction, the writ petition is disposed of. There will be no order as to costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To:

1 The Commissioner,
Greater Chennai Corporation,
Ribbon Building, Chennai - 600 003.

2 The Zonal Officer,
Zone-13, Greater Corporation,
No.115, Dr.Muthulakshmi Road,
Adayar, Chennai - 600 020.

+1cc to Mr.P.Vijendran, Advocate, S.R.No.36087

+1cc to M/s.Karthikaa Ashok, Advocate, S.R.No.35804

W.P.No.14817 of 2022

JPL(CO)

RGA(27/06/2022)