



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P. No.18981 of 2017

Mrs. K. Mageswari

...Petitioner

Vs

1. The Director of Medical Service,
DMS Building, Theynampet,
Chennai.
2. The Administrative Officer,
Directorate of Medical and Rural Welfare Service,
DMK Building, Theynampet,
Chennai.
3. The Joint Director of Medical Service,
Joint Director of Medical Service,
Vellore District.
4. The Medical Officer,
Government Hospital,
Thirupathur, Vellore District.
5. The Assistant Engineer,
Public Works Department,
Building Maintenance-Medical Works,
Thirupathur,
Vellore District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records connected with the proceedings of the impugned order issued by the 2nd respondent by his proceedings in O.Mu.No.485/TV1/4/2017 dated 14.06.2017 and quash the same, consequently direct the respondents to permit the petitioner to run the kiosk at the premises of the 4th respondent based on her representation.



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For petitioner ... Mr. K. Thilageswaran
For respondents ... Mr.E. Sundaram,
Government Advocate,
R1 to R4
... Mrs. Meena Arumugam,
AGP, for R5

ORDER

This writ petition has been filed against the order passed by the second respondent cancelling the licence granted to the petitioner's husband to run a Coffee Bar at Thirupathur Government Hospital.

2. According to the petitioner, originally, in the year 1983, a licence was granted to the petitioner's husband, namely, Kubendran, to run a Coffee Bar in the 4th respondent/hospital, the same has been renewed up to the year 2016. On 02.07.2016, he died due to cardiac failure. Thereafter, the petitioner, being his wife, running the shop, and made an application before the first respondent to transfer the licence in her favour. Now, by impugned order, dated 14.06.2017, the first respondent rejected the application and asked her to vacate the shop from the hospital. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that the petitioner's husband has been running the Coffee Bar from the year 1983 continuously and after his death, the petitioner is entitled for renewal. But, the first respondent, relying upon the G.O.Ms.No.59 (Public Health and Family Welfare Department), dated 20.03.2003, rejected the claim of the petitioner. The petitioner is running the Coffee Bar following all the conditions and absolutely there is no complaint against the petitioner. Under such circumstances, the petitioner may be permitted to run the Coffee Bar. The learned counsel also relied upon the order passed by this Court in W.P.No.14593 of 2015, dated 04.07.2018, wherein, this Court has directed the authorities to permit the existing licensee to continue the shop, however, with suitable conditions.

4. The learned Government Advocate appearing for the respondents submitted that, the licence period was expired in the year 2017 itself. The original licensee also expired on 02.07.2016 and the petitioner, who is the wife of the licensee, is not entitled for renewal and transfer of license in her favour. That apart, as per G.O.Ms.No.93, Public Health and



Family welfare (H2) Department, dated 25.03.2015, the license can be given only inviting tender from the public and that all the existing licensee should be vacated within 3 months . In view of the said G.O., the petitioner is not entitled to continue the Coffee Bar in the said premises. Even though the license was expired in the year 2017, she has been running the shop for the past 5 years without any valid license and hence, this petition is liable to be dismissed.

5. This Court considered the rival submissions made on either side and perused the materials available on records carefully.

6. Earlier, the very same Government Order, relied upon by the learned counsel for the respondents, has been put to challenge before this Court in W.P.No.14593 of 2018 dated 04.07.2018, and this Court, while upholding the validity of the G.O. considering the licenses, who are running the canteen in the hospital, directed that an opportunity should be given to them, improve the quality of food and hygiene and if they fail to do so, suitable action can be taken to vacate them. Further the authorities are directed to ensure the hygiene, quality of food and pricing to be maintained and there cannot be any compromise on that. 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 give 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 and 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."



7. Considering the same, as the petitioner's license has already been expired, the petitioner is directed to make a suitable application before the fourth respondent and the fourth respondent is directed to consider her application and pass orders, considering the directions issued by this Court in W.P.No.14593 of 2015.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Director of Medical Service,
DMS Building, Theynampet,
Chennai.
2. The Administrative Officer,
Directorate of Medical and Rural Welfare Service,
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Chennai.
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Thirupathur, Vellore District.
5. The Assistant Engineer,
Public Works Department,
Building Maintenance-Medical Works,
Thirupathur,Vellore District .

+1cc to Mr. K. Thilageswaran, Advocate, S.R.No.12439

+1cc to the Government Pleader, S.R.No.13034,13047,13068

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NSK/11/04/2022