



W.P(MD)No.4117 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.4117 of 2022

M.Wahitha Banu

..Petitioner

Vs

1.The Managing Director,
The Tamil Nadu Tea Plantation Corporation Ltd.,
Registered Office,
TANTEA,
Coonoor,
Nilgiri District.

2.The Commissioner,
Kovilpatti Municipality,
Kovilpatti,
Tuticorin District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the second respondent to allot the place to open the outlet of TANTEA inside the Aringar Anna Old Bus Stand, Kovilpatti, Tuticorin District in the light of order dated 31.01.2022 passed by the Secretary, Tamil Nadu Local Bodies Ombudsman by considering the petitioner's representation, dated 28.02.2022 within the period that may be stipulated by this Court.



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W.P(MD)No.4117 of 2022

For Petitioner :Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates
For R1 :Mr.R.Ragavendran
Government Pleader
For R2 : J.Parekhkumar

ORDER

The petitioner has filed the Writ Petition seeking issuance of a Writ of Mandamus, directing the second respondent to allot the place to open the outlet of TANTEA inside the Aringar Anna Old Bus Stand, Kovilpatti, Tuticorin District in the light of order dated 31.01.2022 passed by the Secretary, Tamil Nadu Local Bodies Ombudsman by considering the petitioner's representation, dated 28.02.2022 within the period that may be stipulated by this Court.

2. The learned counsel appearing for the petitioner would submit that the petitioner's husband doing agricultural work in the Dindigul District. She had a passion to start and run a business and the struggle for equality for women in India is long, but many female entrepreneurs are overcoming challenges and turning their business ideas into realities. Women are more likely than men to participate in the labour force. Several women own their businesses in India and contribute to the national economy. The TANTEA is one of the biggest Black Tea Producer in India with high quality Clonal Tea Plantations spread



W.P(MD)No.4117 of 2022

over nearly 4500 Hectares, in Nilgiris and Coimbatore Districts of Tamil Nadu and managed by 40 highly qualified professionals. The Tamil Nadu Tea Plantation Corporation Limited herein after referred as TANTEA. She made an application on 15.01.2021 to the first respondent for opening of TANTEA outlet for selling TANTEA and other products of the TANTEA at Aringar Anna Old Bus Stand, Kovilpatti, Tuticorin District. Thereafter, the first respondent by his proceedings, dated 21.01.2021 requested the 2nd respondent to allot a space about 3 & 8 in the name of TANTEA to put up a TANTEA sales outlet for selling their products at Aringar Anna Old Bus Stand, Kovilpatti, Tuticorin District. Thereafter, the second respondent by his proceedings dated 12.07.2021 accepted the request made by the first respondent to open the TANTEA outlet for a period of three years for a monthly rent of Rs.2,200/- with a condition to deposit a sum of Rs.26,400/- as a Fixed Deposit at Treasury of the Municipality. As instructed by the second respondent, the petitioner had deposited a sum of Rs.26,400/- on 02.08.2021 in favour of the second respondent Municipality.

3. He would further submits that on compliance of the conditions prescribed by the second respondent, a License was granted by the second respondent by his proceedings, dated 19.08.2021 for a period of three years



W.P(MD)No.4117 of 2022

from 01.08.2021 to 31.07.2024. Based on the license granted by the second respondent, she had started to install the outlet in the allotted place and obtained an Electricity connection. In the meanwhile, the second respondent without any prior intimation or notice, removed the said outlet. When the same was enquired by him, the second respondent orally informed him that the said outlet was opened in front of the “Amma Unavagam” run by the Government. Therefore, she approached the local Ombudsman and made a representation dated 13.12.2021 and the same was received by them on 15.12.2021 and it was numbered as Appeal No.125/2021 and notice was served to him and to the second respondent on 27.01.2022. On receipt of the said notice, the petitioner had given his explanation and the second respondent also filed a written statement. The Local Ombudsman directed the Commissioner of Municipal Administration to allot a suitable place to the petitioner to run a TANTEA shop without any hindrance to the public.

4. The petitioner after obtaining an order from the Ombudsman in his favour, he approached the second respondent on several time in person to re-allot any place to set up a TANTEA outlet, but there was no response. Therefore, the petitioner has sent a representation to the second respondent on 28.02.2022. The second respondent prolonged the same by giving some vague



W.P(MD)No.4117 of 2022

answers. The petitioner suffering to pay the debts and the interests to the loan which he had availed from the private parties right to do business is a Fundamental right guaranteed under Article 19(1)(g) of the Constitution of India. She prays for getting outlet of TANTEA inside the Aringar Anna Old Bus Stand, Kovilpatti, Tuticorin District in the light of the order passed by the Secretary, Tamil Nadu Local Bodies Ombudsman directing the Commissioner of Municipal Administration to allot a suitable place to the petitioner.

5. The Managing Director filed counter affidavit, wherein, it has been stated that the Tamil Nadu Tea Plantation Corporation Limited (TANTEA) is a Government of Tamilnadu undertaking and comes under the administrative control of the Tamil Nadu Forest Department. The first respondent corporation is having production capacity of about 8 million kg per year and has opened its Sales Bunk in various Districts of Tamil Nadu in order to promote retail packet sales. The first respondent has sent a letter to the second respondent to allot a space about 8 x 8 in the name of first respondent Corporation to put up sales outlet for selling the products of this first respondent Corporation at Arignar Anna Old Bus Stand area, Kovilpatti vide Ref,No.9537/2017/S4, dated 22.01.2021. The first respondent had also fixed the rent as Rs.2,200/- and to remit the 12 months monthly rent as a security deposit amount of Rs.26,400/- to



W.P(MD)No.4117 of 2022

the first respondent. After the said deposit, The first respondent corporation have also sent a letter to the petitioner to remit that sales bunk rent fixed as Rs. 2,000/- per month and remit the security deposit amount of Rs.1,00,000/- to the first respondent corporation vide ref.No.9537/2017/S4 dated 07.12.2021. But the petitioner has not paid the sales Bunk rent and security deposit and not executed the sales bunk agreement with this first respondent Corporation and renewed the dealership till date. In the meantime, the second respondent Corporation has issued a cancellation order vide this office letter No. 389/2021/A3 dated 11.01.2022.

6. Heard the learned counsel appearing on both sides and perused the materials available on record.

7. It is seen from the affidavit that the petitioner did not come forward to comply with the conditions prescribed in the allotment agreement and on the other hand, the vacant site allotted by the second respondent for the first respondent came to be cancelled by the Kovilpatti Municipality vide their letter No.389/2021/A3, dated 11.01.2022 on account of hindrance cause to the public. As on date, there is no vacant place allotted to this respondent for the purpose of Establishment of TANTEA shop within the limits of Kovilpatti Municipality.



W.P(MD)No.4117 of 2022

It is further stated that if at all any vacant portion is allotted to this respondent by the Kovilpatti Municipality in future then this respondent would allot the said shops by the following due procedures. At the relevant point of time, it is open for the petitioner to participate in the said process along with others.

8. The learned counsel appearing for the first respondent would submit that the petitioner has got another TANTEA outlet in Dindigul bus stand also.

9. The learned counsel appearing for the second respondent would submit that the Kovilpatti Municipality is ready and willing to allot the space at new bus stand or new road near Government Hospital.

10. The petitioner's husband appeared before this Court in person and submitted that those two places are not suitable for running her business and there is no takers for tea and there is no frequent public access in that area. All these facts are not accepted by this Court as the petitioner has no fundamental right for seeking particular place for keeping his outlet and it is the discretion of the Kovilpatti Municipality to allot the place and he can go and approach the second respondent in person. If the other conditions are complied with, the second respondent can allot the space to the petitioner.



W.P(MD)No.4117 of 2022

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11. With the above observation and direction, the writ petition stands dismissed. No costs.

Index :Yes/No

Internet :Yes/No
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13.10.2022

To

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W.P(MD)No.4117 of 2022

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W.P(MD)No.4117 of 2022

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