



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:29.04.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP(MD) . No.8861 of 2022

- 1.B.Abdul Raheem
- 2.K.Muniyasamy
- 3.A.Baskaran
- 4.M.Lakshmi
- 5.S.Manirathinam
- 6.M.Pooveziraja
- 7.S.Beermohamed
- 8.S.Senthil
- 9.K.Amsavalli
- 10.S.Nathr Ali
- 11.A.Segu Abu Bakkar
- 12.I.Ayubkhan
- 13.A.Akbar Ali
- 14.S.Sagubar Nisha
- 15.S.Arumugam
- 16.M.Saravan
- 17.M.Kamalraj
- 18.K.Syed Abuthakir
- 19.I.Appas
- 20.N.Sakila Banu
- 21.S.Kansul Mahariba
- 22.A.Seethalakshmi
- 23.R.Ganesan
- 24.K.Mala
- 25.A.Krihsna Moorthy
- 26.S.Amanulla

... Petitioners

Vs.

- 1.The Commissioner of Police,
Office of the Commissioner of Police,
Thiruchirappalli City.
- 2.The Inspector of Police,
Cantonment Police Station,
Cantonment,
Thiruchirappalli City.

... Respondents

PRAYER :- Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Mandamus, to forbear the respondents herein from interfering with the petitioners street vending eatery business at VOC street, near Central Bus Stand, Trichy City, during late night hours based on the Go(Ms)No.60/2019 dated 28.05.2019 issued by the Government of Tamilnadu the labour and employment(K2), Department for permitting the shops and establishments to keep open for 24/7 all days of the years and by considering our representation dated 23.04.2022.



For Petitioner : Mr.B.Jameel Arasu
For Respondents : Mr.R.M.Anbunithi,
Additional Public Prosecutor (Crl.side)

O R D E R

This writ petition has been filed to forbear the respondents herein from interfering with the petitioners street vending eatery business at VOC street, near Central Bus Stand, Trichy City, during late night hours based on the Go(Ms)No.60/2019 dated 28.05.2019 issued by the Government of Tamilnadu the labour establishments to keep open for 24/7 all days of the years and by considering our representation dated 23.04.2022.

2.The petitioners are the members of the Trichy Mavatta Thalluvandi Tharaikadai cum Market Vyaparigal Sangam, who are all doing street vending business for the past several years at VOC Road opposite to Central Bus Stand, Trichy. While being so, when the petitioners were running business, at about 08.00 pm., within a short period of such opening of their business, by 10.30 pm., the police personnel arrived and demanded to close their business without any orders from any authorities whatsoever. As per the Government Order issued by the Government of Tamilnadu in G.O.Ms.No.60, dated 05.06.2019, it was clearly stated that the petitioners are entitled to open the shops 24x7 hours on all days of the year. Even otherwise for eatery business there is no restrictions at all in running the said business. In this regard, this Court already issued directions in W.P.NO.10512 of 2018 dated 03.02.2022. The relevant portion reads as follows:

'1. that by virtue of amendment of Section 35 vide Chennai City Police (Amendment) Act, 2007, the Commissioner of Police is not empowered to make any rules under Section 39, in the matter of regulating the timings of opening and closing of the eatery shops/hotels/restaurants and thus, the police authorities are not having any authority or power to dictate the opening and closing timings of the eatery shops/hotels/restaurants either orally or written instructions;

2. the police authorities shall not interfere with the business activities of the eatery shops/hotels/restaurants and disturb their peaceful functioning under the guise of law and order problem and even in which case, it is bounden duty of the police authorities to provide appropriate protection to the eatery shops/hotels/restaurants;

3. that by virtue of G.O.Ms.No.60 Labour and Employment (K2), dated 28.5.2019 vide Notification published in Tamil Nadu Gazettee, dated 15.06.2019 since the State Government permitted all the shops and establishments to keep Open for 24x7 all days of the year, the owners of the eatery shops/hotels/restaurants are at liberty to fix closing



timings on their own depending upon their convenience and arrival of customers subject to the compliance of the conditions prescribed in the Notification until further orders by the Government or otherwise, as per the terms and conditions of the License/permits issued by the State Government / Municipal Corporation/Licensing Authorities,

4. that the State Government alone is empowered to fix opening and closing timings of eatery shops/hotels/restaurants and to make rules thereof;

5. that the State Government shall ensure smooth functioning of the eatery shops/hotels/restaurants during the night hours so that the private employees, watchmen and guards, taxi drivers who drive Ola, Uber and other cabs, young delivery boys working in swiggy, zomato and other delivery agencies, night shift employees and others can get food at odd hours.

6. that the police authorities shall be vigilant and take earnest safety measures at all times and ensure that no law and problem would arise so that the eatery shops/hotels/restaurants can function peacefully without any interruption; and

7. that it is needless to state that the police authorities can take action in accordance with law in the event of owners of the eatery shops/hotels/restaurants indulge in any illegal or prohibited activities. '

3.Hence, this Court is of the view that similar directions may also be issued to the respondents.

4.In the result, the Writ Petition stands disposed of with above directions. No costs.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



TO

1.The Commissioner of Police,
Office of the Commissioner of Police,
Thiruchirappalli City.

2.The Inspector of Police,
Cantonment Police Station,
Cantonment, Thiruchirappalli City.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER
IN
WP (MD) No.8861 of 2022
29.04.2022

RS (25.05.2022) 4P-4C