



W.P(MD)No.16475 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.16475 of 2022

and

W.M.P(MD) No.11905 of 2022

A.Chinnaraja

...Petitioner

-Vs-

1.The District Collector,
Madurai District,
Madurai.

2.The District Differently Able Welfare Officer,
Ground Floor, Collectorate New Building,
Madurai.

3.The Tahsildar,
Usilampatti Taluk,
Usilampatti,
Madurai District.



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4.The Commissioner,
Usilampatti Municipality,
Usilampatti,
Madurai District.

5.The Executive Engineer,
Public Works Department/WRO (i/c),
Gundar Basin Division,
Madurai.

6.The Assistant Engineer,
Highways Department,
Kavandanpatti Road,
Anandnagar, Usilampatti,
Madurai District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the fifth respondent in connection with the impugned order passed by him in his proceedings in Ka.No. 196M/Va.Pa/E.A1Ko/6(U)/2022 dated 21.07.2022 and quash the same as illegal and arbitrary and consequently, direct the first respondent to grant license and permit the petitioner to continue his petty shop/Bunk shop nearby the Madurai Bus Stop of Usilampatti Town in the light of the disability certificate issued by the second respondent dated 29.05.2014.



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For Petitioner : Mr.S.P.Naveenkumar

For R1 to R3 &
R5 and R6 R2 : Mr.S.P.Maharajan

Special Government Pleader

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

This Writ petition is filed challenging the impugned communication dated 21.07.2022 issued by the fifth respondent. By impugned order of the fifth respondent, the petitioner's application dated 11.07.2022 to grant permission to put up a petty shop, just abutting the bund of water body known as Usilampatti kanmoi, was rejected.

2. The case of the petitioner is that he is a handicapped and he has put up a small petty shop. It is further stated that the petty shop is not causing any hindrance or inconvenience to the public. Since the petitioner was directed to remove the petty shop on his own orally, the petitioner states that he has come forward with this writ petition.



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3. Merely because the petitioner is a handicapped and he is doing small business by putting up the petty shop, the encroachment cannot be approved by the respondents. This Court has repeatedly held that no encroachment in water body can be permitted and there cannot be a compromise on this principle.

4. It is open to the petitioner to put up the petty shop in a rental building or in any place, which may be considered by the respondents as unobjectionable. Since the petitioner himself admitted that the petty shop has been put up in a water body, which is at the end of kanmoi and should be kept for the public usage, this Court is unable to find any reason to interfere with the impugned order.

5. In view of the above, the writ petition is dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.) & (S.S.Y., J.)

27.07.2022

Index : Yes / No
Internet : Yes / No
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ORDER MADE IN

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