



W.P.Nos.619, 622 & 627 of 2020

W.P.No.622 of 2020:

Raja Annamalai Mandram (Arugil)
Nadai Pathai Viyabarigal Sangam
Represented by its Treasurer
Thiru.V.Shagul Hameed
Reg.No.89/96, No.37
CITU Office 2nd floor
Bandher Street, Chennai-600 001.

.. Petitioner

Vs.

1.The Commissioner
Corporation of Chennai
Rippon Building
Chennai-600 003.

2.The Chairman
Town Vending Committee
Zone-V
Greater Chennai Corporation
No.61, Basin Bridge Road
Chennai-600 021.

.. Respondents

W.P.No.627 of 2020:

Annai Theresa Nalindhor
Salaiyora Siru Vyabarigal Sangam
Represented by its Secretary
Thiru.C.Madhappan
Reg.No.985/99, Shop No.126
Raja Annamalai Mandram
Compound Wall
TNPSC Road, Chennai-600 108.

.. Petitioner

Vs.



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Town Vending Committee
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Greater Chennai Corporation
No.61, Basin Bridge Road
Chennai-600 021.

.. Respondents

Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to quash the impugned order in Z.O.V.C.No./5039, 5040, 5042/2019 dated 09.07.2019 of the 2nd Respondent and to direct the respondents to permit the members of the petitioners Association to put up temporary/permanent concrete structures in the allotted area covered with iron rolling shutter or any other structure that may be specified by the respondents in order to secure and safeguard their goods as that is allowed in the case of Burma Bazaar and China Bazaar.

In all the three WPs.

For Petitioners : Mr.R.Syed Mustafa

For Respondents : Mr.G.T.Subramanian
Standing Counsel



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COMMON ORDER

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(Order of the Court was delivered by V.M.VELUMANI,J.)

The petitioners have come out with the present Writ Petitions challenging the impugned order dated 09.07.2019 of the 2nd Respondent, for a direction to the respondents to permit the members of the petitioners Association to put up temporary/permanent concrete structures in the allotted area covered with iron rolling shutter or any other structure that may be specified by the respondents in order to secure and safeguard their goods as that is allowed in the case of Burma Bazaar and China Bazaar.

2. Heard the learned counsel appearing for the petitioners as well as the learned Standing Counsel appearing for the respondents and perused the entire materials on record.

3. The issues involved in all the three Writ Petitions are one and the same and hence, they are disposed of by this common order.



4. The members of the petitioners Association are street vendors.

According to the petitioners, its members are carrying on business in the street for several years. As per the order of this Court dated 06.04.2006 made in W.P.No.1049 of 2006, the 2nd respondent Committee was constituted under the Chairmanship of a retired Judge of this Court. The Committee framed a Scheme with regard to the street vending business. As per the Scheme, the street vendors were identified, Identify card and license were issued to them. License has to be renewed on or before 15th March of every year. According to the petitioners, the street vendors are carrying on business in the place allotted to them. At the time of closing their business, they covered their goods with tarpaulin sheets and tied them with rope. For several years, they did not have any problem. Subsequently, some of the goods were stolen and damaged by anti-social elements. Their goods were spoiled and they are finding it very difficult to open the business in the next day morning. In view of the same, they approached the respondents for putting up temporary/permanent concrete structures with shutters to safeguard their goods. The said request was rejected by passing impugned order dated 09.07.2019 by the 2nd respondent. Challenging the said order, the petitioners have come out with the present Writ Petitions. The learned counsel for the petitioners



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referred to clauses (xiv) and (xv) of Scheme – I and contended that there is no total prohibition for putting up temporary or permanent structure.

The respondents without considering the difficulties faced by members of petitioners' Association rejected the request. The reason given by the respondents is not valid and prayed for allowing the Writ Petitions.

5.The 1st respondent filed counter affidavit. The learned Standing Counsel appearing for the respondents referring to various provisions of the Scheme framed by the Committee and referring to the facts leading to permitting the street vendors to carry on their business and license issued to them submitted that the place where members of the petitioners are carrying on business is in a busy commercial locality with large movement of general public and during festival season, there will be more people in the said locality. If street vendors are permitted to put up any temporary/permanent concrete structures, it will affect the traffic, maintenance of storm water drain, sewer line, EB cable of TANGEDCO & cable of BSNL and prayed for dismissal of the Writ Petitions.

6. From the above materials, it is seen that the members of the petitioners' association are street vendors. The 2nd respondent Committee



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identified the street vendors and issued Identity cards & license to carry on their business. The petitioners have come out with the present Writ Petitions challenging the order of the 2nd respondent rejecting their request to put up temporary/permanent concrete structures to safeguard their goods. It is not in dispute that members of the petitioners are street vendors and are carrying on business in busy commercial locality. The contention of the learned counsel appearing for the petitioners is that as per sub clause (xiv) and (xv) of the Scheme - I, there is no total prohibition for putting up temporary structure as per the Scheme in the place allotted to them. According to the learned counsel appearing for the petitioners, the only prohibition is that vendors should not encroach the area beyond the demarcated area and put up structure. The said contention is not acceptable. Clause (xiv) and (xv) are extracted hereunder for easy reference.

(xiv) "Every such license shall be renewed before the 15th day March of every succeeding year. Unless the hawkers produce their license and photo identity cards duly issued and renew the license, he/she shall be deemed to be an unauthorized hawker.

(xv) No hawker shall erect any structure or extend his business beyond the license area by projections either



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horizontally or vertically and such projections or extensions are liable to be removed summarily without any prior notice."

As per the Clause (xv), the vendors are not permitted to put up any structure or extend their business beyond the license area by putting up any structures. Further, the vendors are carrying on their business on the foot path, platforms and edge of the street margin. The 1st respondent has filed counter affidavit and in paragraph 7, it is stated as follows:

"7. It is submitted that the request of the petitioner members to have a structure with roof and sides with rolling shutters were taken up on file by the Town Vending Committee and on considering it had decided and rejected the request, on the grounds as follows:-

i) The place allotted to the hawkers are important commercial places in the Chennai City and public movements are very high in their places and during festival time the public crowd is further more and traffic conjunction also high. So it is not advisable to consider the request.

ii) Further if the footpath is allowed to put permanent/Temporary structures it will affect the maintenance of storm water drain, sewer line, EB cable of TANGEDCO & cable of BSNL., so it is not advisable to



consider the request.

iii) There is also possibility for arial encroachment if they allowed structures in their allotted space so it is not adviceable to consider their request.

The decision of the Town Vending Committee is well within the limits of the Act, and it reflects the public interest and their welfare. Further the decision is taken in accordance with the Street Vending plan envisaged in the Act.”

7. The petitioners and their members expressed their problems that their goods are being stolen and spoiled by anti-social elements. According to the petitioners, at their request, Assistant Commissioner of Police ordered patrolling during night to safeguard their goods. In view of the same, it is open to the petitioners Association to approach the concerned Police to safeguard the goods. If the petitioners are permitted to put up permanent structures, license which has been granted by the respondents will become lease, which is impermissible and not within jurisdiction of this Court.

8. In view of the above, if street vendors are permitted to put up



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temporary/permanent concrete structures, it will affect the maintenance of storm water drain, sewer line, EB cable of TANGEDCO & cable of BSNL. The impugned order was passed after convening the meeting with petitioners and their members. After considering the difficulties expressed by the petitioners and its members and report of the Assistant Engineer, Ward – 59, Chennai Corporation, impugned order has been passed. The reason given in the impugned order is valid and legal. There is no reason to interfere. The petitioners are not entitled for the relief now sought for in the present Writ Petitions.

9. For the above reasons, all the three Writ Petitions are dismissed.

No costs.

(V.M.V., J) (V.L.N., J)
28.02.2023

Index : Yes / No

Neutral Citation : Yes / No

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**V.M.VELUMANI,J.
and**

V.LAKSHMINARAYANAN,J.

Kj

To

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