



WEB COPY

WP No.6641 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05-04-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.6641 of 2023

D.Malini

... Petitioner

Vs.

1.The Chair Person,
Zonal Executive Engineer,
Zone-13, (The Township Vending Committee),
Adyar,
Chennai-600 020.

2.The Corporation of Chennai,
Zone-13,
Adyar,
Chennai-600 020.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 28.01.2023 to permit the petitioner to run Bunk Shop near Kotturpuram Railway Station, Chennai.



For Petitioner : Mr.J.Ranjith Kumar
For Respondents : Ms.P.T.Rama Devi,
Standing Counsel for Greater
Chennai Corporation.

ORDER

The relief sought in the present writ petition is to direct the respondents to consider the petitioner's representation dated 28.01.2023 to permit the petitioner to run Bunk Shop near Kotturpuram Railway Station, Chennai.

2.The petitioner states that her husband left her and her two children 15 years back. She is the only breadwinner of the family. She is a differently abled person with 65% disability. She is running a Bunk shop near Kotturpuram Railway Station, Chennai for the past about four years. The petitioner is selling lemon soda and other eatable items in the Bunk shop. From and out of the earning, she is leading her livelihood.

3. The learned counsel for the petitioner states that the petitioner submitted a representation to the first respondent-The Chair person, Zonal Executvie Engineer, Zone-13 (The Township Vending Committee), Adyar,



Chennai-20 to grant her a trade licence to run the Bunk shop in the above said locality. The representation was not considered and therefore, the petitioner is constrained to move the present writ petition.

4. Mere sending/submission of representations to the Authorities would not confer any right on the petitioner to seek Trade License. Several such eligible persons are sending/submitting representations/applications for grant of Trade Licence and all those applications are to be considered in accordance with the provisions of the Act and the Rules, which are in force for the purpose of granting Trade License. Putting up a Bunk Shop and thereafter sending representation seeking licence, at no circumstances be encouraged by the Courts. Mere direction by the High Court to dispose of the representation would do no service to the cause of justice. Again the litigant would be back to the Court by way of another writ petition. Therefore, even for issuing a direction to consider the representation, the litigant must establish his/her right to get such a direction from the High Court.



5. The practice of sending/submitting representation indiscriminately and filing a writ petition to dispose of the representation would cause infringement to the right of other eligible persons, who all are longing to secure such Trade Licence by sending/submitting applications to the Competent Authorities. The High Court cannot pave way for such discrimination amongst the eligible candidates, who all are longing to get such Trade Licenses in accordance with the law. That apart, the relief/ remedy granted by issuing a direction to dispose of the representation is sometimes abused by the litigants in collusion with the Authorities. With the direction of the High Court to dispose of the representation, files are created and such creation of files out of turn would pave way for corrupt practices on the side of the Executives, and therefore, the High Court is expected to be cautious while issuing such directions even to dispose of the representation in the absence of establishing any legal right, which is mandatory for entertaining a writ petition under Article 226 of the Constitution of India.

6. In the present case, admittedly, the petitioner has not secured any valid Trade Licence to run a Bunk shop. She has illegally put up a



Bunk Shop in place of her choice, which would cause hindrance to the public and therefore, such practice of commissioning any Bunk Shop illegally and thereafter sending/submitting application for license, at no circumstances, be permitted by the High Court and therefore, the petitioner is not entitled for any relief.

7. The petitioner has to submit an appropriate application before the Competent Authority for allotment of Bunk Shop and the Competent Authority shall consider it in accordance with the law, by following the seniority and by considering all the eligible persons, who all are waiting for such allotment in accordance with the procedures contemplated. If at all, any such application is submitted by the petitioner, the said application prior to the construction of the Bunk Shop could be considered by the Competent Authorities. Hence, the representation sent by the petitioner to grant license to the Bunk Shop, which has been illegally constructed, cannot be granted by the Competent Authorities and the Authorities are directed to look into all such illegalities and ensure peaceful traffic flow in the public area. If any illegality is found, it is to be removed in the interest of the public.



8. Accordingly, the present writ petition stands dismissed.

However, there shall be no order as to costs.

05-04-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn



To

WEB COPY

1. The Chair Person,
Zonal Executive Engineer,
Zone-13, (The Township Vending Committee),
Adyar,
Chennai-600 020.

2. The Corporation of Chennai,
Zone-13,
Adyar,
Chennai-600 020.



WEB COPY

WP No.6641 of 2



S.M.SUBRAMANIAM, J.

Svn

WP 6641 of 2023

05-04-2023