



W.P.Nos.8270 & 4263 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 26.09.2023

ORDERS DELIVERED ON : 02.11.2023

CORAM

**THE HON'BLE MRS.JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS.JUSTICE N.MALA**

**W.P.Nos.8270 & 4263 of 2019
and W.M.P.No.4802 of 2019**

W.P.No.8270 of 2019

Avadi Anna Square Small Vendors
General Welfare Association,
Rep. By its Treasurer,
No.6, Railway Station Road,
Avadi, Chennai – 54.

... Petitioner

vs.

1.The District Collector,
Collectorate, Tiruvallur & Dist.

2.The Commissioner,
Municipality of Avadi,
N.M.Road,
Chennai – 600 054.

3.The Assistant Engineer,
High Ways Department,
Nehru Bazar,



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Chennai – 54.

4. The Inspector of Police (L & O),
T-6, Avadi Police Station,
Chennai – 54.

5. S. Udhayakumar

6. U. Naresh

7. B. Dinesh ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st and 2nd respondents to conduct thorough and proper enquiry in respect of encroaching and un-authorized construction made by the private respondents in the S.No.6 & 7 (Grazing land) situated at Avadi Anan Square, Avadi, Chennai – 54. If the authorities would be found the private respondents No.5 to 7 are encroaching and made an un-authorized constructions, to frames scheme to accommodate the petitioner's Association members to continue the Street Vending business in view of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

W.P.No.4263 of 2019

Avadi Anna Square Small Vendors
General Welfare Association,
Rep. By its Treasurer,
No.6, Railway Station Road,
Avadi, Chennai – 54.

... Petitioner

Vs.



W.P.Nos.8270 & 4263 of 2019

- 1.The District Collector,
Collectorate,
Tiruvallur & Dist.
- 2.The Commissioner,
Municipality of Avadi,
N.M.Road,
Chennai – 600 054.
- 3.The Assistant Engineer,
High ways Department,
Nehru Bazar,
Chennai - 54.
- 4.The Inspector of Police (L & O),
T-6, Avadi Police Station,
Chennai – 54.
- 5.Town Vending Committee,
Rep. By its Chairperson,
Avadi Municipality,
New Military Road,
Avadi, Chennai – 54.

(R5 impleaded vide order dated 20.03.2019,
made in WMP.No.8512 of 2019 in
W.P.No.4263 of 2019 by DKKJ)

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the 3rd respondent from interfering the peacefully running the business on the Avadi Railway Station Road to Avadi Anan Square, Avadi, Chennai – 54 by the petitioner's association members contemplated the Street Vendors (Protection of Livelihood and regulation of Street Vending) Act, 2014 on the vending area



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of Avadi Railway Station Road to Avadi Anna Square, Chennai – 54 and also in view of the order in W.P.No.16458 of 2017 dated 25.07.2018.

For Petitioner (in both cases) : Mr.P.Vijendran

For R1, R3 & R4 : Mr.P.Gurunathan
(in both cases) Additional Government Pleader

For R2 (in both cases) : Mr.R.Gopinath

For R5
(in W.P.No.4263 of 2019) : Mr.B.Vivekavanan

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COMMON ORDER

The Writ Petition in W.P.No.8270 of 2019 is filed to direct the 1st and 2nd respondents to conduct thorough and proper enquiry in respect of encroaching and un-authorized construction made by the private respondents in the S.No.6 & 7 (Grazing land) situated at Avadi Anna Square, Avadi, Chennai – 54. If the authorities would be found the private respondents No.5 to 7 are encroaching and made an un-authorized constructions, to frames scheme to accommodate the petitioner's Association members to continue the Street Vending business in view of the



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Street Vendors (Protection of Livelihood and Regulation of Street Vending)

Act, 2014.

2.The Writ Petition in W.P.No.4263 of 2019 is filed to forbear the 3rd respondent from interfering the peacefully running the business on the Avadi Railway Station Road to Avadi Anna Square, Avadi, Chennai – 54 by the petitioner's association members contemplated the Street Vendors (Protection of Livelihood and regulation of Street Vending) Act, 2014 on the vending area of Avadi Railway Station Road to Avadi Anna Square, Chennai – 54 and also in view of the order in W.P.No.16458 of 2017 dated 25.07.2018.

3.Both the writ petitions are taken up together as the reliefs prayed for therein are inter-linked and the same are disposed of by this common order.

4.The petitioner's Association is a registered Association, the members of which have been conducting street vending business for more



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than 30 years. The vending zone of the petitioner's association is between the Anna Square to Avadi Railway Station. Behind the street vendors premises there is a grazing land (மேய்க்கால் புரம்போக்கு) which is spread over 50 cents. The land is said to be occupied by some big business including the respondents 5 to 7. The respondents 5 to 7 are said to have occupied the major portion of the said land and constructed buildings without getting any planning permission. Several litigations were filed by the members of the petitioner's association before various Courts against the private respondents. In 2014, the Street Vendor Act, 2014 was introduced to protect and promote the street vendors. As the second respondent did not implement the Act, the petitioner's association filed a writ petition in W.P.No.16458 of 2017 for a Writ of Mandamus. On the submission made by the second respondent therein that the Street Vending Committee was already formed, that the process of conducting survey was underway and that the identity cards would be issued to the Street Vendor wherever there was no objection, this Court disposed of the writ petition directing the second respondent therein to complete the process, within a period of six months from the date of receipt of a copy of the order. Thereafter the



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second respondent issued identity cards to some of the vendors. As the third respondent was continuously giving threat to the Petitioner association for eviction, they approached this Court in W.P.No.4263 of 2019 for a Mandamus, to forbear the third respondent from interfering with the peaceful running of the business of the Petitioner Association Members on the Avadi Railway Station Road to Avadi Anna Square, Avadi, Chennai – 54. The above said W.P.No.4263 of 2019 was directed to be tagged along with W.P.No.8270 of 2019 vide the order dated 09.06.2023.

5.The petitioner association filed the W.P.No.8270 of 2019 for Mandamus to conduct enquiry in respect of the encroachment and unauthorized construction by the private respondents 5 to 7 in the Government grazing land land (மேய்க்கால் புரம்போக்கு) and it was found that the private respondents were encroaching and made an unauthorized constructions, to frames scheme to accommodate the petitioner's association members to continue the Street vending business in view of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. According to the Petitioner Association, as the



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official respondents were trying to evict its members at the instigation of the respondents 7 & 8, in order to protect their rights under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014, the petitioner's filed the writ petition for the aforesaid relief.

6.The official respondents filed their detailed counter. The third respondent filed the counter stating that the Avadi Railway Station Road belongs to the Highways Department and as the said Zone was not declared as a vending Zone, the Highways Department was constrained to remove the encroachers in the interest of public as disturbance was caused to the road users by the unauthorized street vendors. It was further stated that as per Clause 26 (1) Chapter V of the Tamil Nadu Highways Act of 2001, the Department was empowered to remove the encroachments on highways within the highway boundaries to ensure that the Highway road was cleared of all encroachments causing hindrance to free traffic movement. The second respondent Municipality filed their counter on 25.09.2023 detailing the various measures taken by the Municipality to implement the Street



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Vendor Act, 2014. According to the second respondent, Avadi Railway Station road was declared as a restricted vendor Zone and 25 Nos. of permissible vendors were granted license.

7.The private respondents 5 to 7 filed their detailed counter denying all the averments made in the writ petition, apart from stating that there were not encroachers as alleged by the petitioner association and that the writ petition was not maintainable as the subject matter of the writ petition was also the subject matter of the civil suits.

8.When the matter was taken up for hearing on 09.06.2023, the learned counsel for the second respondent submitted that the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 was already framed and that the Municipality was bound to implement the scheme and hence sought short accommodation. Thereafter when the matter was listed for hearing on 05.09.2023, the learned counsel for the second respondent municipality relying on the counter filed in W.P.No.8270 of 2019 stated that the vending and non-vending zones were identified and the



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Avadi Railway Station Road was identified as restricted vending zone. It was stated that 25 Nos. of vendors alone were permitted to occupy the restricted area and the remaining persons who were carrying on business without proper identification were to be removed. Hence, the learned counsel sought for three weeks time to implement the plan. This Court in view of the said submissions adjourned the matter by three weeks for compliance of the directions given in paragraph No.5 and further directed the respondents to ensure that the vending license did not exceed the stipulated 25 Nos. The respondents were also directed to accommodate the other vendors in alternative zone. Thereafter when the matter was taken up for hearing on 26.09.2023, the second respondent Corporation filed its counter affidavit stating that the unlawful Street vendors of the Avadi Railway Station Road were evicted and 25 street vendors who were provided with licence alone were permitted to conduct street vending. The list of the street vendors and type of street vending was also annexed to the counter. It was stated that to streamline the vending activity a yellow line marking was drawn by the Police department and vending activity was allowed within the marking line. It was further stated the



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Director of Municipal Administration vide his circular in ROC.No.20789/2021/UPA, dated 08.09.2023 instructed all local bodies to complete the formation of fresh vending committee in case existing Town Vending Committee completed its tenure of five years and no town vending committee had been formed as per the schedule. The second respondent therefore stated that the issuance of the identity cards to the vendors and other activities would be completed as per the guidelines framed by the Director of Municipal Administration.

8.In view of the counter filed by the second respondent Municipal Corporation, the writ petitions are disposed with the following directions.

1.The second respondent is directed to issue the identity cards to the enumerated 25 nos. of the Street vendors as expeditiously as possible.

2.It is made clear that except the 25 Nos. of street vendors identified by the second respondent no other street vendor shall be entitled to vend in the



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Avadi Railway Station Road and in case any such illegal, unauthorised vending is found, the respondents shall evict the same by following the due process of law.

3.In so far as the members of the petitioner association who have not been enumerated and identified, they are directed to submit their request to the second respondent Municipal Corporation for alternative accommodation.

4.The second respondent Municipal Corporation shall take steps to accommodate the said vendors in alternative zones by placing their request before the fresh Town Vending Committee, which shall consider the request strictly in accordance with law.

9.With the above directions, these Writ Petitions stand disposed of. However, there shall be no order as to costs. Consequently the connected miscellaneous petition stands closed.



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J.N.B., J. N.M., J.

02.11.2023

Index : yes/no

Internet : yes/no

Speaking order/Non-speaking order

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To

- 1.The District Collector,
Collectorate, Tiruvallur & Dist.
- 2.The Commissioner,
Municipality of Avadi,
N.M.Road,
Chennai – 600 054.
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J.NISHA BANU, J.
&
N.MALA, J.
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PRE-DELIVERY ORDER IN
W.P.Nos.8270 & 4263 of 2019
and W.M.P.No.4802 of 2019

02.11.2023