



W.P.No.9927 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.9927 of 2023

C.Palanichamy

...Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by Principal Secretary,
Health Department,
St. George Fort, Chennai - 600 009.
2. The Director of Medical Services,
O/o. The Director of Medical Services,
Kilpauk, Chennai - 600 040.
3. The Principal,
Government Medical College Hospital,
Villupuram District.
4. The Executive Engineer,
Public Works Department,
Building Section (Medical Works),
Vellore - 6.
5. The General Manager,
TND-494,
Villupuram - Cuddalore District,
Co-Operative Milk Producers Society Limited,
(Aavin),



W.P.No.9927 of 2023

Villupuram Taluk.

...Respondents

WEB COPY

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to order issued vide Na.Ka.No.4114/thi(ma)va/2018 dated 01.09.2021 issued by the Principal, Government Medical College Hospital, Vilupuram and to quash the same and direct the respondents 2 to 5 to consider the representations of the petitioner and consequently direct the respondents 2 to 5 to allot a place at Villupuram Government Hospital and Medical College Campus, Villupuram for running an Aavin Booth by the petitioner.

For Petitioner : M/s.S.S.Jhothivani

For Respondents : Mr.S.Balamurugan, GA

ORDER

This Writ petition has been filed seeking quashment of the order of the 3rd respondent in respect of the proceedings bearing Na.Ka.No.4114/thi(ma)va/2018 dated 01.09.2021 and for a consequential direction to the respondents 2 to 5 to consider the petitioner's representations and to consequently allot a place at Villupuram Government Hospital and Medical College Campus, Villupuram for running an Aavin Booth by the petitioner.

2. Mr.S.Balamurugan, learned Government Advocate takes notice for the respondents. In view of the consent expressed by the Learned counsel on



W.P.No.9927 of 2023

either side, this petition is taken up for final disposal.

WEB COPY

3. The case of the petitioner is that the petitioner is a physically handicapped person suffering from 70% permanent disability. During the year 2017, the petitioner made a representation before the District Collector, Villupuram, requesting permission to establish an Aavin Milk Booth in Villupuram Government Hospital and Medical College Campus. Pursuant to the said representation, the 5th respondent, vide communication dated 11.10.2017 bearing Na.Ka.No.925/V.P.1/2015, intimated the petitioner that an order for running Aavin Milk Booth in the requested place is already issued long ago and if the petitioner makes representation seeking permission to run Aavin Milk Booth in some other place, the same will be considered, if there is any provision. Thereafter, the petitioner made several representations before the 5th and 3rd respondents, requesting to allot a place for running Booth at a distance of 500 meters from the existing Aavin booth, i.e., near the entrance of the hospital. Upon receipt of the petitioner's representations, though several correspondence have taken place in between the officials, however, no steps have been taken to allot a suitable place to the petitioner to run an Aavin Booth. Aggrieved by the inaction on the part



W.P.No.9927 of 2023

of the respondents, the petitioner filed a Writ petition in W.P.No.18788 of 2019 and pursuant to the order of this Court dated 02.03.2020, the petitioner made a fresh representation dated 28.10.2020 and upon receipt of the said application, the 3rd respondent, vide proceedings bearing Na.Ka.No.4114/thi(ma)va/2018 dated 01.09.2021, rejected the petitioner's request for allotment of suitable place for running a Aavin Booth. Challenging the same, this Writ petition.

4. Learned counsel for the petitioner submitted that, though the petitioner's request for allotting suitable place to run an Aavin Booth was rejected by the 3rd respondent on the ground that, tenders will be called as per law and thereafter alone allotments will be made, however, it is pertinent to note that, the respondents, on their own, have allotted an Aavin Booth to one Ilavarasi in the month of December 2022, without calling for any tender. He further submitted that, aggrieved by the impugned order, the petitioner once again made a representation dated 26.10.2021, upon receipt of which, the 3rd respondent, vide order dated 02.11.2021, informed the petitioner that, if he obtains necessary permission and No Objection Certificate from the Director of Medical Services, appropriate orders will be



W.P.No.9927 of 2023

passed with regard to setting up of Aavin Milk Booth at Government Medical College Hospital, Villupuram. Hence, he prayed for appropriate orders.

5. Learned Government Advocate appearing for the respondents submitted that, any allotment in respect of public property will be made only after calling for tender as per the Government orders and no allotment can be made in favour of any individual, without calling for tender and without following due process of law. Hence, he prayed for dismissal of this Writ petition.

6. Heard learned counsel on either side and perused the material documents placed on record.

7. Though the petitioner allege that allotment has been made in favour of the individuals without calling for any tenders as per the Government orders, however, no proof was produced by the petitioner to substantiate the same. Unless the petitioner shows that allotment has been made in favour of any individual without calling for tender, no affirmative direction can be issued in favour of the petitioner. Further, as rightly pointed out by the



W.P.No.9927 of 2023

learned Government Advocate appearing for the respondents, allotment can be made only by way of public auction. Hence, the prayer sought for by the petitioner in the present Writ petition cannot be granted and this Court is not inclined to interfere with the order impugned in this Writ petition.

8. For the reasons aforesaid, this Writ Petition stands dismissed. No costs.

30.03.2023

skt

NCC : Yes / No
Speaking Order : Yes / No
Index : Yes / No

To

1. State of Tamil Nadu,
Rep. by Principal Secretary,
Health Department,
St. George Fort, Chennai - 600 009.
2. The Director of Medical Services,
O/o. The Director of Medical Services,
Kilpauk, Chennai - 600 040.
3. The Principal,
Government Medical College Hospital,
Villupuram District.

6/8



W.P.No.9927 of 2023

WEB COPY

4. The Executive Engineer,
Public Works Department,
Building Section (Medical Works),
Vellore - 6.
5. The General Manager,
TND-494,
Villupuram - Cuddalore District,
Co-Operative Milk Producers Society Limited,
(Aavin), Villupuram Taluk.

M.DHANDAPANI., J.

skt

W.P.No.9927 of 2023



WEB COPY



W.P.No.9927 of 2023

30.03.2023