



W.P.No.10470 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.10470 of 2023

R.Prabu

...Petitioner

-Vs-

1. The Commissioner
Greater Chennai Corporation,
Ripon Building,
Chennai – 3.

2. The State Commissioner for
Differently Abled Persons,
SRDC, Jawaharlala Nehru Inner Ring Road,
K.K.Nagar Chennai - 78.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, forbearing the 1st Respondent and further directing the 1st Respondent to consider the representation dated 24.03.2023 to grant licence for running the Bunk shop roadside near Jai Nagar Park, Koyembedu, Chennai or in any alternative place.



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For Petitioner : Mr.R.M.Muthu Kumar
For Respondents :
(for R1) : Ms.P.T.Rama Devi, Standing Counsel
for Greater Chennai Corporation
(for R2) : Mr.C.Selva Raj, AGP

ORDER

The relief sought in the present writ petition is to direct the first respondent to consider the representation dated 24.03.2023 to grant licence for running a Bunk shop at roadside near Jai Nagar Park, Koyembedu, Chennai or in any alternate place.

2.The petitioner states that he is a differently abled person with 50% disability. He is running a Bunk shop at roadside platform near Jai Nagar Park, Koyembedu, Chennai, for the past about two years. The petitioner is selling coffee, tea and other eatable items in the Bunk shop. From and out of the earning, he is leading his livelihood.

3.The learned counsel for the petitioner states that the petitioner submitted a representation to the Commissioner of Chennai Corporation to grant a trade licence to run the Bunk shop in the above said locality. The



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representation was not considered and therefore, the petitioner is constrained to move the present writ petition.

4. Mere sending representations to the authorities would not confer any right on the petitioner to seek a trade license. Several such eligible persons are 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 rules which are in force for the purpose of granting a 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 right to get such a direction from the High Court.

5. The practice of sending representation indiscriminately and filing a writ petition to dispose of the representation would cause infringement of the right of other eligible persons who all are waiting and longing to secure such trade licence by submitting applications to the



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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, 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. He has illegally put up a Bunk Shop in place of his choice which would cause hindrance to the public and therefore, such practice of commissioning any Bunk shop illegally and thereafter submitting application for license, at no circumstance be permitted by the High Court and therefore, the petitioner is not entitled for any relief.



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7.The petitioner has to submit an appropriate application before the competent authority for allotment of shop 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 alone is to be considered by the competent authorities and 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 in the public area. If any illegality is found, it is to be removed in the interest of the public.

8.Accordingly, the writ petition stands **dismissed**. However, there shall be no order as to costs.

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

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S.M.SUBRAMANIAM. J.,

(sha)

To

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