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Writ Petition No.12852 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.12852 of 2023

and

W.M.P.No.12657 of 2023

Chidambaram Town Anna Market
Vegetable Fruits Merchants Association,
represented by its Secretary,
F-7, 1st Floor, Vegetable Market,
West Car Street,
Chidambaram - 608 001.

...Petitioner

Vs

The Commissioner,
Chidambaram Municipality,
Chidambaram - 608 001.
Respondent

...

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records comprised in Na.Ka.No.1419/2022/F1 dated 03.06.2022 on the file of the respondent, quash the same and consequentially, direct the respondent to permit the Members of the petitioner Association to run their respective Shop Nos.1 to 72 at West Car Street, Chidambaram - 608 001.



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For Petitioner : Mr.T.Mohan, Senior Counsel
for Mr.V.Balamurugane

For Respondent : Mr.P.Srinivas
Standing Counsel

ORDER

This writ petition has been filed challenging the impugned proceedings of the respondent dated 03.06.2022 and for a consequential direction to the respondent to permit the members of the petitioner association to run their respective shops at West Car Street, Chidambaram.

2. When the matter came for admission on 25.04.2023, this Court passed the following order:

"Mr.K.Karthikeyan, learned Government Advocate takes notice for R1, 3, 4, 7 and 11 and Mr.C.Selvaraj, learned Additional Government Pleader takes notice on behalf of R2, 5, 6, 8, 9 and 10.

2. On hearing the learned Senior counsel appearing on behalf of the petitioner association, the main grievance that has been ventilated is that the members belonging to the petitioner association who were running their shops have been asked to vacate and they have been allotted a place which is more than 1 km from the existing market. Whereas, the respondent is permitting 100 other shops which is being run right behind the existing market. If the place is congested and that is the reason why the members of the petitioner association are being allotted a different place, it was contended that the same should be applied to those persons who are running their shops right behind the market and that no action has been taken till date. This



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according to the learned Senior counsel will cause serious dent in the business of the members of the petitioner association.

3. The learned Standing counsel appearing on behalf of respondent Corporation seeks time to file a counter affidavit in this case and also to take instructions as to whether the others who are carrying on the vending business are doing it in the Waqf property or in the property belonging to the Municipality.

4. Post this case under the caption for orders on 06.06.2023."

3. When the matter was taken up for hearing today, learned Standing Counsel appearing on behalf of the respondent pointed out the stand taken by the respondent in the counter affidavit. Learned Standing Counsel submitted that the work is in progress insofar as the construction of new market complex is concerned and the members belonging to the petitioner association have been given an alternative place, which is hardly 1 km. from the existing place and they have been asked to run their business till the completion of the construction. Insofar as the query that was posed by this Court in the earlier order passed on 25.04.2023, learned Standing Counsel submitted that immediately after the members of the association shift their business to the alternative place, the respondent expects the vendors, who are doing their business in the property belonging to the Waqf, also to move to the place where the alternative site has been identified. If the same is not



done, the respondent Municipality will ensure that the business is not continued by those vendors without getting valid license from the respondent Municipality.

4. Learned Senior Counsel appearing for the petitioner submitted that the petitioner association is not seeking for any vested right and the association only wants similarly placed persons to be treated equally without discrimination. Learned Senior Counsel submitted that if the members belonging to the association are shifted to the alternative place and the vendors, who are doing business in the property belonging to the Waqf continue their business, the entire business will go to them and no one will travel for another 1 km. and give business to the members belonging to the association. Learned Senior Counsel, therefore, submitted that there must be a Level Playing Field and in any case, the persons, who are running the business in the property belonging to the Waqf cannot be allowed to continue the business without valid license.

5. Learned Standing Counsel in reply to the above submission, submits that if the persons doing their business in the Waqf property do not



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shift their business to the alternative place, the respondent will take steps to ascertain as to whether the business is conducted after obtaining proper license and in the absence of the same, the respondent will take action against each individual who is doing business without getting permission of the Municipality.

6. In the considered view of this Court, the stand taken by the Municipality will sufficiently take care of the apprehension raised by the petitioner association. It is true that the members belonging to the petitioner association may face some hardship in running the business in the alternate place till the new market complex is opened. It is not possible for this Court to give a substantial solution for the problem. However, in order to ensure a Level Playing Field, the respondent Municipality shall ascertain as to whether the business in the Waqf property by individuals is done after obtaining proper license from the respondent Municipality. In the absence of the same, they cannot be allowed to do the business. If removal of congestion is the main ground on which the respondent Municipality took a

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decision to have a separate market complex, the same must be the criteria while ascertaining the congestion that could be caused by persons doing the business in the Waqf property. If this policy is applied across the Board, there may not be any grievance for the members belonging to the petitioner association. This shall be kept in mind by the respondent and they shall act accordingly.

This writ petition is disposed of in the above terms. No costs.
Consequently, connected miscellaneous petition is closed.

15.06.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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To
The Commissioner,
Chidambaram Municipality,
Chidambaram - 608 001.

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