



W.P.No.16769 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.16769 of 2019 and

WMP No.16377 of 2019

Swamy Vivekanandar Salaiyora Sirukadai

Viyabarigal Sangam, T.Nagar Railway Border Road,
(Kizhakku pakkam) (Registered Street Vendors Sangam).

rep. by its Secretary Mrs.R.Jaima

... Petitioner

Vs.

1. The Secretary, Municipal Administration,
Government of Tamil Nadu, Secretariat,
St. George Fort, Chennai 600 009.
2. The Commissioner, Municipal Corporation of Greater Chennai,
New Zone X, Kodambakkam, Chennai 600024.
3. Zonal Executive Engineer, Municipal Corporation
of Greater Chennai, New Zone X, Kodambakkam,
Chennai 600 007.
4. The Commissioner of Police, Chennai City,
Vepery, Chennai 600 007.
5. The Inspector of Police (Law and Order),
R1, Mambalam Police Station,
T.Nagar, Chennai 600 017.



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6. The Chairman, Hawking Zone Implementation
Committee (Vending Committee),
No.7/6, R.A.Puram, III Street,
R.A.Puram, Chennai 600 028.

7. The Chairman cum Commissioner,
Corporation of Chennai City Vending Committee,
Rippon Building, Chennai 600 003.

8. The Chairman cum Executive Engineer,
Town Vending Committee, Zone-X,
Kodambakkam, Chennai 600 024.
(R7 and R8 are impleaded as per Court Order
dated 21.08.2019 in WMP No.24245/2019 in
W.P.No.16769/2019)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to
issue a Writ of Mandamus, forbearing the respondents from in any way
restricting the members of the petitioner Association from carrying on the
Retail Vending Business at the railway border road, T.Nagar, Chennai.

For Petitioner : Rajsh S.S.

For Respondents : Mrs.R.L.Karthika, Gov.Advocate
for Respondents 1, 4 and 5

Mrs.P.T.Ramadevi, Standing Counsel
for Respondents 2, 3 and 6 to 8



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ORDER

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This Writ Petition has been filed to forbear the respondents from in any way restricting the members of the petitioner Association from carrying on the Retail Vending Business at the railway border road, T.Nagar, Chennai.

2. According to the petitioner Association, they had applied for issuance of Street Vending Certificate to its members before the 6th respondent. In the earlier round of litigation, this Court vide order dated 21.06.2018 in W.P.14986/2018, has directed the Zonal Officer concerned of the Corporation of Chennai to consider their representation dated 19.04.2018 on merits and pass orders within two weeks time, and till such time, defer further decision, as to the removal of the alleged encroachments. However, without considering their representation, the respondent concerned has willfully obstructed and removed the members of the petitioner Association from Street Vending at Railway border Road, T.Nagar. Further, the petitioner Association is taking to steps to obtain



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proper certificate to carry out the street vending business. According to them, the members of the petitioner Association hold valid right to carry out street vending, but the respondents have restricted them. Hence the writ petition.

3. The third respondent has filed a counter affidavit, stating that the petitioner association was formed only in the year 2018. Further the members of the petitioner association were not doing the hawking business at the time of survey and since the Railway Border Road is busiest road connecting the Mambalam Railway Station with T.Nagar bus terminus, the petitioner representation dated 19.04.2018 was considered and rejected and it was also communicated to the petitioner association, by letter dated 12.07.2018. However, without challenging the above rejection order and also suppressing the same, the petitioner Association has filed the writ petition, which is liable to be dismissed.



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4. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents. We have also perused the materials on record.

5. The main contention of the petitioner Association is that, despite the order of this Court dated 21.06.2018 in the earlier writ petition in W.P.No.14986/2018, the respondents have not considered its representation dated 19.04.2018 and restricted their members from carry out the street vending business in the place in question. But, the above representation was considered and rejection order was also passed by the respondents. The petitioner Association has not denied the above said passing of rejection order. Therefore, without challenging the rejection order, the petitioner Association cannot file another writ petition, seeking prayer in a different manner to forbear the respondents from restricting the members of the petitioner from carrying out the retail vending business at the above said place. Further, if the petitioner Association is having any legal right to claim the relief, it is for them to approach the authorities concerned, in accordance with law.



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6. Accordingly, this writ petition is dismissed, with liberty to approach the authorities concerned to claim the relief. No cost. Consequently, connected miscellaneous petition is closed.

(D.K.K.J.) (P.D.B.J.)

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Internet: Yes/No

Index : Yes/No

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