



WEB COPY



W.P.No.33439 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.33439 of 2022

A.Salema

... Petitioner

Versus

1.Muthavallee,
Azarath Syed Moosa Sha Khaderi Dargan,
(Mount Road Dargah), Anna Salai,
Chennai - 600 002.

2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
Chennai - 600 001.

3.The Commissioner,
Chennai Corporation.
(R3 Suo motu impleaded vide order
dt.04.01.2023 made in W.P.No.33439/2022)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 1st respondent to remove the Board at the Dargah as, "not to purchase Boondi and Flower Garlands, for the Fathiya for the said Dhargha from the outside vendors and footpath vendors" by order and also to restrict the said Muthavalli from unfair trade practice for his own benefit against the petitioner.

For Petitioner : Mr.M.Hussaini Basha

For R-1 : Mr.N.A.Nassir Hussain



WEB COPY



W.P.No.33439 of 2022

For R-2 : Mr.G.Mohammed Aseef

For R-3 : Mrs.P.T.Ramadevi

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus directing the 1st respondent to remove the Board at the Dargah as, "not to purchase Boondi and Flower Garlands, for the Fathiya for the said Dhargha from the outside vendors and footpath vendors" and also to restrict the said Muthavalli from unfair trade practice for his own benefit against the petitioner.

2. The contention of the writ petitioner is that the board displayed in the Dharga will affect the livelihood and earnings of the petitioner from the above said Boondhi shop. Hence, seeks for the above direction.

3. The learned counsel appearing for the first respondent would submit that the writ petition is not maintainable and the place where the petitioner allegedly running a Boondhi/Sweet stall and garlands is a No Hawkers zone and there are no shops on any platform. The Greater Corporation of Chennai has installed big display board at both corners of the Dharga platform as No



W.P.No.33439 of 2022

Hawkers Zone. The petitioner encroached the public platform, pathway causing obstruction and nuisance to the general public. The petitioner has put up a slab and laid tiles on the public platform and pathway and near the Dargah and has installed 3 to 4 flags with sandalwood paste, Ghalaf and Hundian and using the name of the Dharga cheating the public and worshipers that this is a part of the Dharga and thereby bringing disrepute to the renowned Dharga. Since it is a main road, the officials had warned the respondents not to entertain such items and displayed the board. It cannot be said to be unfair trade practice and hence, prayed for dismissal of the above petition.

4. Learned counsel appearing for the third respondent/Corporation submitted that since the Town Vending committee is not constituted, whether that area will be permitted or not is to be decided by the Committee.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. The only grievance of the petitioner is that the first respondent/Muthavalli has displayed the board inside the mosque, which



W.P.No.33439 of 2022

affects her livelihood. It is to be noted that the board has been displayed in the mosque to regulate worship. Merely because the board has been displayed inside the mosque, it cannot be assumed that it will affect the petitioner's business. It is the choice of the persons, who purchase the Boondhi either from the petitioner or in the mosque. Merely because such a board has been displayed, the petitioner cannot seek such a direction. The first respondent/Muthavalli can very well regulate the noise in the mosque.

7. In such view of the matter, merely because the board has been displayed, the petitioner as a matter of right cannot seek direction from this Writ Court.

8. Accordingly, the writ petition is dismissed. It is well open to the petitioner to get appropriate permission from the concerned local authorities to have a Vending shop in the area permitted by them. No costs.

07.02.2023

Index : Yes/No
Internet : Yes/No
Speaking order/Non speaking order
rsi



W.P.No.33439 of 2022

WEB COPY To

- 1.Muthavallee,
Azarath Syed Moosa Sha Khaderi Dargan,
(Mount Road Dargah), Anna Salai,
Chennai - 600 002.
- 2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
Chennai - 600 001.
- 3.The Commissioner,
Chennai Corporation.



WEB COPY



W.P.No.33439 of 2022

N. SATHISH KUMAR, J.

rsi

W.P.No.33439 of 2022

07.02.2023