



W.P.(MD)No.23628 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.23628 of 2015

S.Sundara Manikanda Eswari

... Petitioner

versus

1. The Government of Tamilnadu,
Rep. by its Principal Secretary,
Department of Health and Family Welfare,
Fort St. George,
Chennai – 9.
2. The Director of
Medical Services and Rural Welfare,
Thenampet, DMS Office,
Chennai – 600 006.
3. The Dean,
Government Medical College Hospital,
Sivagangai,
Sivagangai District.
4. The Executive Engineer P.W.D.,
Buildings Construction & Maintenance Division,
Maruthupandiyar Nagar,
Sivagangai,
Sivagangai District.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondent Nos.2 and 3 to consider the claim of the petitioner to grant permission for running the Kiosk in the premises of the 3rd respondent Government Medical College Hospital Campus, Sivagangai District, within the time stipulated by this Court.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.P.T.Thiraviam,
Government Advocate

ORDER

The petitioner, a physically challenged person, has filed this writ petition, seeking to grant him permission to run a Kiosk in the premises of the 3rd respondent Government Medical College Hospital, Sivagangai District.

2. The learned counsel for the petitioner, by referring to Section 37(c) of Rights of Persons with Disabilities Act 2016 (hereinafter



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referred to as “the Act”), submits that the said Act mandates the appropriate Government and the local authorities to make schemes in favour of persons with benchmark disabilities, to provide 5% reservation in allotment of land on concessional rate, where such land is to be used for the purpose of promoting housing, shelter, setting up of occupation, business, enterprise, recreation centres and production centres.

3. The learned counsel appearing for the petitioner, by relying on G.O.Ms.No.100, Municipal Administration and Water Supply Department dated 16.02.2000, submits that the Government has already issued this G.O., directing the local bodies to allot 1% of shops in favour of disabled persons. Therefore, the official respondents ought to have considered the case of the petitioner in the light of the provisions under Section 37(c) of Rights of Persons with Disabilities Act 2016 and G.O.Ms.No.100 dated 16.02.2000.



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4. The learned Government Advocate, by referring to the counter affidavit, submits that the petitioner's application for allotment of a Kiosk was already rejected by the second respondent on 24.12.2013. The petitioner has made further representation on 11.07.2014, which was also forwarded to the second respondent for consideration and the same was also rejected by the second respondent on 25.07.2014. Again the petitioner has submitted another representation to the second respondent on 29.10.2014. After receipt of the said representation, the second respondent has called for remarks from the 3rd respondent. While so, the Government has issued G.O.Ms.No.93 dated 25.03.2015 by taking a policy decision to close all the tea shops within the premises of the Government Hospitals, except the Government Tiffin Centre. All other private centres now functioning in the Government Hospitals were ordered to be removed and no permission would be given to run the private Tiffin centre, after a period of three months or after the expiry of the contract period, if any. Therefore, the petitioner is not entitled to put up a tea shop in the premises of the 3rd respondent.



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Now, the Government has also taken a decision, vide G.O.Ms.No.194 dated 21.06.2022, laying down certain guidelines for opening milk parlor/tea shop/canteen within the premises of the Government Hospital and that too only way of a public auction.

5. In the absence of any specific provision to allot a shop in favour of the disable persons, this Court is not inclined to issue a writ of mandamus as prayed for in this writ petition. The petitioner can work out his remedy by invoking G.O.Ms.No.100 dated 16.02.2000, in the event any local body notifies for public auction for their shops.

6. Accordingly, this writ petition is dismissed. No costs.

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.



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