

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.04.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.4292 of 2016
and W.M.P(MD).Nos.3821 and 3822 of 2016

S.Arokiya Nirmala Rani

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Principal Secretary,
Department of Health and Family Welfare,
Fort St.George,
Chennai-9.

2.The Director of Medical Education,
O/o.The Director of Medical Education,
Kilpauk,
Chennai.

3.The Dean,
Government Medical College Hospital,
Sivagangai,
Sivagangai District.

4.The Executive Engineer P.W.D.,
Buildings Construction and Maintenance Division,
Maruthupandiyar Nagar,
Sivagangai,
Sivagangai District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Na.Ka.No.6038/TIVA/2014 dated 27.01.2016 on the file of the third respondent and quash the same as illegal and to consequently direct the respondents to permit the petitioner to run a TANTEA Stall for vending Tea, at Government Hospital, Sivagangai, within the time stipulated by this Court.

For Petitioner :Mr.S.Rajasekar

For Respondents :Mr.M.Sarangan
Additional Government Pleader

ORDER

The petitioner assails a communication dated 27.01.2016 from the third respondent by which the petitioner was not permitted to operate a TANTEA kiosk in the Government Hospital, Sivagangai.

2. Learned counsel for the petitioner submits that G.O.Ms.No.300, dated 18.09.2009, was issued by the Health and Family Welfare (J1) Department, specifically with reference to the Tamil Nadu Tea Plantation Corporation Limited (TANTEA). By this order, TANTEA was permitted to sell its products in Government District Hospitals by setting up a stall.

By contrast, he submits that G.O.Ms.No.93, Health and Family Welfare (H2) Department, dated 25.03.2015 and the subsequent G.O.Ms.No.194, dated 21.06.2022, are not directed at the outlets of TANTEA. Therefore, he submits that the petitioner's request is liable to be considered in light of G.O.Ms.No.300, Health and Family Welfare (J1) Department, dated 18.09.2009.

3. Learned Additional Government Pleader for the respondents submits that the request of the petitioner was under active consideration until G.O.(Ms).No.93, Health and Family Welfare (H2) Department, dated 25.03.2015, was issued. Upon issuance of G.O.Ms.No.93, Health and Family Welfare (H2) Department, dated 25.03.2015, he submits that the licence for operating such Kiosk is required to be obtained through the process of public auction. G.O.(Ms).No.93, Health and Family Welfare (H2) Department, dated 25.03.2015, was superseded by G.O.(Ms).No.194 dated 21.06.2022. In the changed scenario, he submits that the petitioner's application cannot be considered, but the petitioner is at liberty to participate in the public auction. He also submits that the petitioner's

agreement with TANTEA had expired and was no longer in force, when the petitioner made the relevant request for permission.

4. Upon examining G.O.Ms.No.93, Health and Family Welfare (H2) Department, dated 25.03.2015 and G.O.Ms.No.194, dated 21.06.2022, it is evident that these Government orders are generic. Learned counsel also informs me that G.O.Ms.No.194 has been challenged and that such challenge is pending before the Principal Bench. In these circumstances, the request of the petitioner cannot be countenanced at this juncture. It will, however, be open to the petitioner to contend that only G.O.(Ms).No.300, Health and Family Welfare (J1) Department, dated 18.09.2009 would apply to the operation of TANTEA kiosks or that the petitioner falls within the scope of the exemption in clause (v) of G.O.Ms.No.194, dated 21.06.2022, in appropriate proceedings instituted in such regard.

5. W.P(MD).No.4292 of 2016 is disposed of on these terms, without any order as to costs. Consequently, connected W.M.P(MD).Nos. 3821 and 3822 of 2016 are closed.

05.04.2023

NCC :No
Internet :Yes
Index :No
ssb

To

1.The Government of Tamil Nadu,
Represented by its Principal Secretary,
Department of Health and Family Welfare,
Fort St.George,
Chennai-9.

2.The Director of Medical Education,
O/o.The Director of Medical Education,
Kilpauk,
Chennai.

3.The Dean,
Government Medical College Hospital,
Sivagangai,
Sivagangai District.

4.The Executive Engineer P.W.D.,
Buildings Construction and Maintenance Division,
Maruthupandiyar Nagar,
Sivagangai,
Sivagangai District.

W.P.(MD)No.4292 of 2016

SENTHILKUMAR RAMAMOORTHY, J.

ssb

W.P.(MD)No.4292 of 2016

05.04.2023