



W.P(MD)No.25318 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25318 of 2023

and

W.M.P(MD)No.21513 of 2023

KS.Muthu

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Madurai.

2.The Dean,
Government Rajaji Hospital,
Madurai.

3.The Medical Superintendent,
Government Rajaji Hospital,
Madurai.

4.The Assistant Engineer,
PWD Department,
Government Rajaji Hospital,
Madurai.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent herein in his proceedings in Na.Ka.No.10845/DV1/2023 dated 20.07.2023 and quash the same and consequently directing the second respondent to re-allot and permit the petitioner to run a small bunk shop (8 x 8) nearby mortuary or any vacant place at Government Rajaji Hospital, Madurai.

For Petitioner : Mr.S.Ramsundarvijayraj

For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

2. The writ petitioner is a visually challenged person. He was having a tiny bunk stall inside the premises of Government Rajaji Hospital, Madurai. An allegation was made that he had tampered with the waterline. Crime No.979 of 2011 was registered against him on the file of Mathichiyam City Police Station. Citing the said implication in



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the criminal case, his license was terminated. Subsequently, the case ended in acquittal. The petitioner applied to the second respondent for restoration of the earlier position. His request was negatived. The impugned order dated 20.07.2023 came to be passed. Challenging the same, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

4. The learned Special Government Pleader points out that in view of G.O(Ms)No.194 Health and Family Welfare Department dated 21.06.2022, guidelines had been laid down and such licenses has sought for by the petitioner can be given only through public auction / tender. It is not possible to choose an individual and issue such licenses.

5. I am satisfied that the objection raised by the learned Special Government Pleader is well founded. The impugned order is sustained.



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The respondents 1 to 3 will however bear in mind the statutory scheme set out in the Rights of Persons with Disabilities Act, 2016. Sections 27 and 37 of the said Act read as follows:

“27. Rehabilitation.—(1) The appropriate Government and the local authorities shall within their economic capacity and development, undertake or cause to be undertaken services and programmes of rehabilitation, particularly in the areas of health, education and employment for all persons with disabilities.

(2) For the purposes of sub-section (1), the appropriate Government and the local authorities may grant financial assistance to non-Governmental Organisations.

(3) The appropriate Government and the local authorities, while formulating rehabilitation policies shall consult the non-Governmental Organisations working for the cause of persons with disabilities.

....

37. Special schemes and development programmes.—The appropriate Government and the local authorities shall, by notification, make schemes in favour of persons with benchmark disabilities, to provide,—



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(a) five per cent. reservation in allotment of agricultural land and housing in all relevant schemes and development programmes, with appropriate priority to women with benchmark disabilities;

(b) five per cent. reservation in all poverty alleviation and various developmental schemes with priority to women with benchmark disabilities;

(c) five per cent. 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.”

As and when shops or vacant spaces within the premises of the second respondent Hospital are auctioned in future, due regard shall be had to these two provisions. This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

19.10.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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