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W.P.(MD)NO.13840 OF 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.02.2024

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.13840 of 2015 AND
W.M.P.(MD)No.1 of 2015

A.Hamsadevi

... Petitioner

Vs.

1. The Director of Medical Education,
O/o.The Director of Medical Education,
Chennai.

2. The Dean,
O/o.the Dean,
Tanjore Medical College,
Tanjore.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka. No. 25534/thiVa1/2/2015 dated 28.04.2015 issued by the respondent No.1 and quash the same as illegal and consequently to direct the respondents 1 and 2 to allot a space for the kiosk to an extent of 8 X 8 in the name of TANTEA at Respondent No.2 hospital premises within the time stipulated by this Court.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.R.Suresh Kumar,
Additional Government Pleader.

* * *

**ORDER**

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The petitioner has entered into an agreement with the Tamil Nadu Tea Plantation Corporation Limited on 26.06.2014 as a dealer to sell TANTEA products in Thanjavur Medical College Hospital campus. The petitioner approached the second respondent for allotting a space to her within the campus of Thanjavur Medical College. The request of the petitioner was refused vide communication dated 28.04.2015 by the first respondent. Challenging the same, the present writ petition came to be filed.

2. The learned counsel appearing for the petitioner submits that by referring G.O.Ms.No.93 Health and Family Welfare(H2) dated 25.03.2015, the first respondent has refused to grant permission to put up the stall inside the Thanjavur Medical College. However, the aforesaid G.O. was upheld by this Court in W.P.(MD)No.14593 of 2015. The High Court has suggested the respondents to ascertain whether the licensees are using the premises in a hygienic condition and the respondents shall permit them to continue their shops. The learned counsel has also relied the orders passed by this court on similar reasons of another person availing a shop at the Government Eye and Ophthalmic Hospital,



Eqmore, Chennai.

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3. The learned Additional Government Pleader appearing for the respondents submits that the petitioner is not entitled to claim it as a matter of right because inside the Medical College campus by entering into an agreement with TANTEA. According to the learned Additional Government Pleader, the writ petitioner has entered into an agreement with TANTEA and made a request to the first respondent to allot a space at Thanjavur Medical College. The respondents 1 and 2 are the competent persons to take decision with regard to allotment of any space inside the campus of the Thanjavur Medical College and they cannot compromise health and welfare of the patients who are visiting the hospital by allotting the petitioner to have kiosk inside the Thanjavur Medical College campus.

4. This Court considered the rival submissions.

5. The petitioner has made a request allotting a place inside the campus of Thanjavur Medical College based on G.O.(Ms).No.300 Health and Family Welfare(J1) Department dated 18.09.2009 and the agreement entered between the Tamil Nadu Tea Plantation Corporation Ltd., Coonoor on 26.06.2014. The Government vide G.O.(Ms).No.300 Health and Family Welfare(J1) Department dated 18.09.2009 has permitted the



Tamil Nadu Tea Plantation Corporation Ltd., Coonoor to sell raw products in certain Government District Hospitals by putting up stalls.

On the proposal made by the Managing Director of Tamil Nadu Tea Plantation Corporation Ltd., the Director of Medical Education / Director of Medical and Rural Health Services, Chennai has passed the aforesaid Government Order permitting the Tamil Nadu Tea Plantation Corporation Ltd., to sell raw products in certain Government District Hospitals to put up a stall in order to patronise them. Thereafter, the petitioner has also entered into an agreement wherein he was appointed as a dealer in Thanjavur Medical College hospital campus. This agreement appears to have been made by the Tamil Nadu Tea Plantation Corporation Ltd., is without scrutiny. Based on the agreement with the Tamil Nadu Tea Plantation Corporation Ltd., as well as G.O.(Ms). No.300 Health and Family Welfare(J1) Department dated 18.09.2009, the petitioner made a request to the first respondent and the same was rejected by the order impugned in this writ petition. In the meantime, the Government has also passed G.O.(Ms)No.93 Health and Family Welfare(H2) Department dated 25.03.2015 directing the authorities not to permit any shop which is affecting the hygienic condition of the hospitals. Such Government Order was upheld by this Court in W.P.



(MD)No.14593 of 2015. However, this Court while upholding the said

Government Order, has observed as follows:-

“10. ... the State Government is obligated to provide a decent canteen facility more specifically with hygiene, good food quality and a reasonable pricing. In the absence of providing such a facility, it will be a great hardship for the patients and other inmates of the hospital to take treatment in the Government hospitals.

11. Under these circumstances, this court do not find any irregularities and illegalities in respect of regulating the canteens situated inside the Hospitals.

12. However, the persons who are already running the canteen need to be given an opportunity to improve the quality of food and hygiene and other respects. In this regard, the competent authorities shall give notice to all the administrators of the canteen enabling them to improve the quality of service in all respects. If they fail to do so within a stipulated period given by the authorities, then the authorities are at liberty to take steps to evict such canteen owners.

13. In the case on hand where the contract period is lapsed, if the authorities so decide to extend the contract, sufficient conditions in these regard shall be imposed and in the event of complying with such requirements, the contract may be extended. Therefore, it is made clear that the authorities should ensure that hygiene, quality of food



and pricing are maintained by these persons who are running canteens in all respects and there cannot be any compromise. Periodical inspection of these canteens by the administrative staffs of the medical department are certainly required.”

6. The observations made by this Court in W.P.No.14593 of 2015 cannot be applicable in this case wherein the petitioner was not permitted to avail the shop inside Thanjavur Medical College. The second respondent is the authority to decide whether to permit any tea shop or not inside the campus of the hospital. The second respondent is having responsibility to maintain campus in a clean and hygienic condition. Therefore, this Court is not inclined to entertain this writ petition. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

05.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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Chennai.
2. The Dean,
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B.PUGALENDHI,J.

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