



WP (MD) No.23164 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**RESERVED ON: 27.09.2023
PRONOUNCED ON: 30.01.2024**

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.23164 of 2023
and
WMP(MD)No19365 of 2023**

Krishnaveni

... Petitioner

Vs

1.The District Collector,
Madurai District.

2.The Commissioner,
Madurai Municipal City Corporation,
Aringar Anna Malligai,
Madurai.

3.The Assistant Commissioner,
Madurai Municipal City Corporation,
Aringar Anna Malligai,
Madurai.

4.The Revenue Divisional Officer,
Madurai.

5.The Tahsildar,
Madurai North Taluk,
Madurai District.

6.Mathi

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of mandamus to direct the 2nd and 3rd respondents to do not evict the petitioner's petty shop in illegal manner and give the permission to run the petty shop situated at 43/1, Thiruvengadam, Zone – 2, Madurai based on the petitioner's representation dated 30.05.2023.

For petitioner : Mr.K.Palmurugan

For Respondent : Mr.G.V.Vairam Santhosh

Nos.1, 4 and 5 Additional Government Pleader

For Respondent : Mr.K.Deepak,

Nos. 2 and 3 Standing Counsel

ORDER

The petitioner claiming to be a street vendor, having a petty shop at 43/1, Thiruvengadam, Zone – 2, Madurai has approached this Court with a grievance that the 2nd and 3rd respondents are attempting to remove the petitioner's petty shop at the instance of the 6th respondent and also sought for a mandamus directing the 2nd and 3rd respondents to permit the petitioner to run the petty shop.

2.The case of the petitioner is that her father-in-law, a retired army personnel was running a petty shop in the above said place and after the demise of



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her father -in-law, the petitioner and her husband are running the petty shop.

According to the petitioner, she has been running this shop for more than 50 years, paying the professional tax from the year 2022 and she has also been recognised as a street vendor by the Madurai Corporation and she was also issued with an identity card in UID No.MDU 0191849557280 and the card is valid upto January 2025. While so the respondents are attempting to remove the petty shop of the petitioner.

3.The learned Counsel for the petitioner submits that the 6th respondent and another person is having a motive as against this petitioner and attempted to vacate the petitioner. At their instance, the Corporation officials demolished a portion of the petty shop on 17.03.2023 using JCB. The petitioner has lodged a police complaint and the same was treated as a petition enquiry in CSR No.117 of 2023. During the enquiry the 6th respondent has given an assurance that he will not disturb the petitioner any more. The petitioner has also made a representation dated 30.05.2023 requesting to permit her to continue her business without any disturbance. Since her representation has not been considered, she has filed this writ petition.



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4.The learned Counsel for the respondent Corporation submits that the petitioner is running a petty shop at Ward No.10, Block 33 TS No.1393, which has been classified as a road. At the time of the Chitirai festival, in order to have a free flow of traffic, the Corporation officials have removed the encroachments and demolished the superstructures on the road margin, including the petitioner's superstructure put up in and around her petty shop. However, he submits that the petitioner was recognised as a street vendor and she was permitted to have a moving cart of 3 x 2 feet. However, the petitioner has put up a construction 6 x 6 feet and also put up additional structures around the petty shop to an extent of 10 x 10 feet and it was causing nuisance to the traffic as well as to the common public. If the petitioner runs the shop only in her permitted area, the Corporation is not having any objection.

5.This Court considered the rival submissions made on either side and perused the materials placed on record.

6.The petitioner claims that she is a street vendor, recognised by the Madurai Corporation with an identity card. Street vending means a person engaged in vending of articles, goods, food items or merchandises of everyday use



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or offering services to the general public in street, side walk, pavement or in other public places from the temporary put up structures or moving from one place to another place and including hawking, peddling, etc.,. This right is also provided to have shops in the vending zones.

7.The petitioner claims that she was issued with a licence by the Madurai Corporation with an identity card and this card is valid upto January 2025. The certificate of vending if issued is valid for a period of 5 years from the date of issuance or till the next enumeration of vendors which ever is earlier, as per Rule 10 of the Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2015. A certificate issued cannot be cancelled without providing any opportunity and without providing notice of 15 days as per Rule 12(2) of the Scheme. However, the respondents claim that this petitioner has put up a permanent structure of six feet and also put up additional structures of 10 x 10 Ft. The petitioner can run the shop as directed in the licence with a moving cart 3X2 feet and in the event if any permanent structure is made as against the condition of the license the respondents shall issue notice as required under Rule 12(2) of the Scheme. However, in this case no such notice has been issued and therefore, this writ petition is disposed of with the following directions:



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(i) If the petitioner runs the shop as per the conditions imposed in the license, she need not be dispossessed.

(ii) If the petitioner violates the conditions imposed in the license, the respondents shall issue notice as required under Rule 12(2) of the said Scheme and proceed further in accordance with law. No costs. Consequently connected miscellaneous petition is closed.

30.01.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
dsk
To

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B.PUGALENDHI, J.

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