



W.P.No.31181 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 03.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.31181 of 2023
and
W.M.P.No.30808 of 2023

M/s.Sakthi Arrkay Traders & Caterers Private Limited,
Rep. by its Managing Director S.Krishnan,
No.F-25, Gemini Parsn Apartments,
Cathedral Garden Road,
Nungambakkam,
Chennai – 600 006.

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Health and Family Welfare Department,
Fort St. George,
Chennai – 600 009.

2.The Director of Medical Education,
Kilpauk,
Chennai – 600 010.

3.The Dean,
Rajiv Gandhi General Hospital,
Madras Medical College,
Chennai – 600 003.

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of



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India, praying for a writ of Certiorarified Mandamus, calling for the records of the 3rd respondent letter dated 04.09.2023 in Ref.No.019372/P&D/2021 and quash the same and further direct the 3rd respondent herein to permit the petitioner to operate the canteen in the 3rd respondent College.

For Petitioner : Mr.Mukunth, Senior Counsel
for M/s.Sarvabhauman Associates

For Respondents : Mr.E.Sundaram,
Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned letter of the 3rd respondent dated 04.09.2023 and for a consequential direction to the 3rd respondent to permit the petitioner to operate the Canteen in the 3rd respondent College.

2. The case of the petitioner is that they entered into a contract with the 3rd respondent. Pursuant to an order of allotment dated 31.03.2009, the petitioner was permitted to run a Canteen. In the year 2014, the 3rd respondent through the communication dated 21.05.2014 directed the petitioner to vacate the premises forthwith and handover



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possession. The petitioner filed W.P.No.15226 of 2014, which was dismissed for non-prosecution by order dated 13.02.2020. In the mean time, the 3rd respondent also issued an order dated 10.06.2014 directing the petitioner to vacate the Canteen premises. The petitioner filed W.P.No.27978 of 2014. This Writ Petition was allowed by order dated 20.10.2014 and the relevant portions are extracted hereunder:

“21. Therefore, I am of the considered view that the respondents have taken action against the petitioner, for extraneous reasons, which I am unable to decipher. Since arbitrary exercise of power strikes at the very root of fairness, guaranteed under Article 14, I am unable to sustain the action taken by the respondents. The manner in which the Food Safety Officer drew samples, also does not appear to be in accordance with law. A procedure is prescribed by the Food Safety and Standards Act for drawing samples and sending them for analysis. This has also not been followed.

22. After requesting the petitioner to run the Canteen, at a time when the Co-operative Canteen ran into a financial as well as labour crisis, it is not fair on the part of the respondents to ask the petitioner to shut down even without a breathing time and without an opportunity of hearing.



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23. Therefore, both the writ petitions are allowed.

The respondents shall allow the petitioner to continue to run the Canteen. It is open to the Food Safety Officer to draw samples of cooked items in a manner prescribed by law and send them for analysis and take appropriate action. It is also open to the Dean of the Medical College to initiate appropriate proceedings in accordance with law, for the eviction of the petitioner or for the execution of a proper lease agreement. If the respondent wishes to throw out the petitioner, they shall first issue a notification for putting up a right to run a Canteen for auction, so that the petitioner can also participate in such auction. No costs. Consequently, M.P.Nos.1 and 2 of 2014 in both the writ petitions are closed.”

3. Pursuant to the disposal of the Writ Petition, the 3rd respondent permitted the petitioner to run the Canteen. Even thereafter, steps were taken to evict the petitioner and to stop the petitioner from running the Canteen. Writ Petitions were filed and there was some arrangement between the parties. On 04.09.2023 the impugned letter was issued by the 3rd respondent evicting the petitioner from the property and taking possession of the same. Aggrieved by the action taken by the 3rd



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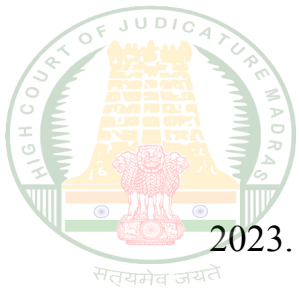
respondent, the present Writ Petition came to be filed before this Court.

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4. The 3rd respondent has filed a counter affidavit. It has been stated in the counter affidavit that there is a total arrears of rent to the tune of Rs.2,35,47,155/-. That apart, the possession has already been taken over by the 3rd respondent and that there are absolutely no merits in the Writ Petition. Accordingly, the respondents sought for dismissal of the Writ Petition.

5. Heard Mr.Mukunth, learned Senior Counsel appearing on behalf of the petitioner and Mr.E.Sundaram, learned Government Advocate appearing on behalf of the respondents.

6. In the considered view of this Court, the relationship between the petitioner and the 3rd respondent is that of a licensee and a licensor. Hence, the right that has been given to the petitioner is only to utilise the space for running a Canteen. On carefully going through the impugned letter dated 04.09.2023 and also the counter affidavit filed by the 3rd respondent, it is seen that there is a staggering amount mentioned as arrears of rent. In any case, the eviction had taken place in the year



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2023. The learned Government Advocate appearing on behalf of the respondents submitted that even in the year 2015 an attempt was made to conduct a public auction. The petitioner did not participate. Till date no public auction has been conducted and no Canteen is being run.

7. Considering the relationship between the parties and taking note of the fact that there was arrears of rent payable by the petitioner and also considering the fact that license for running a Canteen should be given by way of conducting public auction, in order to ensure that the 3rd respondent earns income out of the same, it is too late in the day to interfere with the impugned communication of the 3rd respondent dated 04.09.2023.

8. There shall be a direction to the 3rd respondent to immediately take steps to conduct a public auction for granting license to run the Canteen in the 3rd respondent Government General Hospital. As and when any such public auction is conducted, it is left open to the petitioner to participate in the same along with the others. Except giving this clarity, no further orders can be passed.



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9. Accordingly, this Writ Petition is **disposed of**. No costs.

WEB COPY Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

Speaking order/ Non-speaking order

To:-

- 1.The Secretary,
Government of Tamil Nadu,
Health and Family Welfare Department,
Fort St. George, Chennai – 600 009.
- 2.The Director of Medical Education,
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N.ANAND VENKATESH, J.

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