



W.P.(MD).No.5639 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.02.2025

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THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.5639 of 2025

and

W.M.P.(MD).No.4116 of 2025

The National Association of
Educated Self Employed Youth,
(Reg No.222/1976),
Madras, represented by its General Secretary,
Sri.S.Ganesh Bose.

.. Petitioner

Vs.

1.The Dean,
Government Rajaji Hospital and College,
Madurai - 625 020.

2.The Assistant Executive Engineer (PWD),
Buildings and Maintenance,
Sub Division - 3,
Madurai - 625 020.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records relating to Na.Ka.No.40611/Thi.Va.1/2013 dated 20.12.2024 passed by the 1st respondent, another impugned letter vide Ka.No.Ko.10/A.E.E.3/2025 dated 31.12.2024 sent by the 2nd respondent herein, the 2nd respondent issued a impugned letter dated 17.02.2025 in Ka.No.Ko.10/Oo.Che.Po-3/2025 and the 1st respondent herein



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issued impugned letter in Na.Ka.No.40611/Thi.Va.1/2013 dated 19.02.2025 and quash the same and consequently directing the respondents herein permitting the member of the association namely Sri.Azhagar to continue to run NAESEY canteen in the same place till alternative place allotted by implementing the G.O.Ms.No.1957 (Public Health Welfare) dated 07.09.1977, G.O.Ms.No.(3D) 12/ Public Welfare (H-1) Department dated 09.03.2010, G.O.Ms.No.1508 (Public Works) dated 22.08.1979 and government letter dated 21.11.2023 vide Lr./Tha.Va.A/Che.Ma/NAESEY/2023.

For Petitioner : Mr.K.M.Venugopal

For Respondents : Mr.S.Shaji Bino
Special Government Pleader

ORDER

The petitioner claims to be an Association of educated self employed youth. One of the members of the Association is a gentleman, by name, S.Azhagar. He was permitted to run a Kiosk within the premises of the Government Rajaji Hospital and College at Madurai. The period of lease is from 01.03.2022 to 28.02.2025. The period of lease expiring today (28.02.2025), by the impugned order dated 20.12.2024, the first respondent called upon the petitioner to surrender the vacant possession of the property with effect from 01.03.2025. The second respondent too passed an order dated 31.12.2024, after referring to the order in W.P.(MD).No.4574 of 2022 dated 04.01.2024, stating

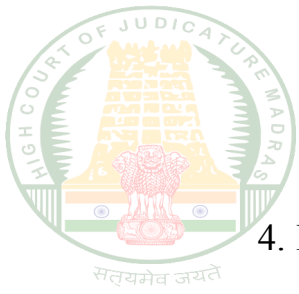


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that as the lease period is expiring, the petitioner would have to surrender possession of the area under his occupation. Challenging these orders and other proceedings, the Writ Petition has come up before this Court.

2. I heard Mr.K.M.Venugopal for the petitioner and Mr.S.Shaji Bino, learned Special Government Pleader for the respondents.

3. Mr.K.M.Venugopal urges that the Government had come up with a Scheme in G.O.(Ms).No.1957 (Public Health and Welfare Department) dated 07.09.1977, permitting the members of the petitioner Association to put up bunks/Kiosk in the compound of Medical Colleges and Hospitals. He points out that when persons were sought to be evicted, proceedings were initiated before the Supreme Court of India and an order was passed in ***N.Jagadeesan etc. Vs. District Collector, North Arcot and others*** in ***Civil Appeal No.1710 of 1987 etc., batch*** dated ***21.02.1997***. He states that calling upon the petitioner to vacate and hand over possession of the premises, which has been under his occupation for more than 30 years, is contrary to the aforesaid G.O., and the order passed by the Supreme Court.



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4. Mr.Venugopal refers to a Government Order passed in G.O.(3D)No.12, Public Works Department dated 09.03.2010, with respect to one Ganesh Bose regarding the Government Hospital at Royapettah and states that similar benefit must be extended to the writ petitioner also. He states disregarding the Government Order in their favour, whereby, benefit was given to the members of NASEY, eviction notice had been issued and therefore, it has to be interfered with by this Court. He states, if Mr.S.Azhagar is evicted from the premises, it will cause huge prejudice to him affecting his livelihood. Therefore, the proceedings should be quashed and the writ petitioner should be permitted to continue in occupation at the Government Rajaji Medical Hospital and College.

5. Per contra, Mr.S.Shaji Bino invites my attention to the proceedings of the first respondent dated 19.02.2025. He urges that the first respondent is proposing to start an IVF Centre and a PET Scan Centre within the premises of the Rajaji Government Hospital. The existence of the bunk shop run by the petitioner, being a hindrance to these projects, the respondents requested the petitioner to hand over possession of the property. He states that there is no vested right in the petitioner to continue in occupation of the property and therefore, seeks for dismissal of the Writ Petition.



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6. I have carefully analysed the submissions of both sides.

7. There is no dispute that the petitioner is a licensee of the premises belonging to the first respondent. The fact that, Mr.S.Azhagar is a member of the writ petitioner Association, only shows that the Government, instead of exercising its right to recover lease/license amounts at the market value, has to give the same on a discounted rate. The fact that Mr.Azhagar has taken license from FSSAI authorities does not assist him, because a person running a food business necessarily has to take a license in order to carry on the said business. Even when the property was given on lease on 01.03.2022, the petitioner was well aware that he has to surrender the premises on the expiry of the lease, when so demanded by the first respondent, who is the owner of the premises.

8. On one hand, there is the plea of Mr.K.M.Venugopal that the livelihood of Mr.Azhagar will be affected if he is evicted from the premises and on the other, there is the plea of the learned Special Government Pleader that the owner of the premises wants to extend its area of activity and assist childless couples by opening an IVF Centre and also a PET Scan Centre. If I have to balance the rights, obviously, the rights of the parents, who would benefit from the IVF



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Centre and the Pet Scan Centre would be more than the benefit that will be given to the petitioner to continue his area of business.

9. A licensee/lessee of a Government land does not have a vested right to continue in possession of the property after the expiry of the period. Had the respondents called upon Mr.Azhagar to hand over possession within the lease period, certainly it would have been an act of illegality. However, the respondents have waited till the lease period is over and only thereafter, have called upon the petitioner to surrender possession of the premises. As I have concluded that the petitioner has no vested right to the property and since his lease period expires by today (28.02.2025), I cannot give a direction for his continuation in the property, for the simple reason that this Court cannot re-write the contract that has been entered into between the petitioner and the first respondent.

10. In the light of the above discussion, I do not find any merits in the Writ Petition. The Writ Petition fails and it is accordingly dismissed. On the petitioner surrendering the area under his occupation, it is always open to him to approach the respondents seeking for an alternate accommodation. I am sure if such accommodation is not going to be of any hindrance to the patients and



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other users of the hospital, the respondents will consider the request of the petitioner. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

28.02.2025

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

To

- 1.The Dean,
Government Rajaji Hospital and College,
Madurai - 625 020.
- 2.The Assistant Executive Engineer (PWD),
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V.LAKSHMINARAYANAN,J.

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