

W.P.(MD)Nos.20338, 27088 and 29854 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 10.12.2024

Delivered On : **07.03.2025**

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)Nos.20338, 27088 and 29854 of 2024

and

W.M.P.(MD)Nos.17251, 17252, 23000, 23001, 23002, 24886, 25158
and 26384 of 2024

W.P.(MD)No.20338 of 2024:-

1.Muthu Raja

2.Jahangir

... Petitioners

Vs.

1.The District Collector,
Trichy Collectorate Building,
Trichy - 620 001.

2.The Commissioner,
Corporation of Tiruchirappalli,
Trichy District.

3.The Assistant Commissioner,
Ko-Abhisekapuram,
Corporation of Tiruchirappallil,
Trichy District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to finalize the list of Street Vendors in Tiruchirappalli Corporation Limits and to conduct an election for forming a “Town Vending Committee”, as per the provisions



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of 'The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014' and 'Tamil Nadu Street Vendors (Protection of Livelihood, Regulation of Street Vending and Licensing) Rules, 2015' in consonance with the order dated 24.10.2018 passed in WP (MD) Nos.10452 and 10503 of 2009, 9877 of 2011, 7326 of 2012, 18676, 19244, 19258, 21090 and 21104 of 2014 and 10060, 10061 and 14348 of 2015 by this Court, by considering the representation of the petitioner's dated 19.08.2024.

For Petitioners : Mr.R.Vigneshwaran
For 1st Respondent : Mr.S.Kameshwaran
Government Advocate
For Respondents 2 & 3 : Mr.R.Baskaran, Senior Counsel
For M/s.R.B.Law Associates

W.P.(MD)No.27088 of 2024:-

Syed Abuthahir Syed Ibrahim

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Local Administration,
Fort St. George,
Chennai - 600 009.

2.The District Collector,
Tiruchirappalli District,
Tiruchirappalli.

3.The Commissioner Cum Chief Executive Officer,
Town Vending Committee,
Corporation of Tiruchirappalli,
Tiruchirappalli.

4.The Returning Officer Cum Assistant Commissioner,
Tiruchirappalli Corporation,
Tiruchirappalli.

... Respondents



W.P.(MD)Nos.20338, 27088 and 29854 of 2024

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent by the impugned Election Notice in Na.Ka. No. Nil dated 04.11.2024, quash the same and direct the 3rd respondent to prepare and publish the voter list of the street vendors having avocation within its territorial jurisdiction, deleting the dead persons, removing the persons who dont fall within the definition of the street vendor under Section 2(1) of the said Act, issue identity cards to the said persons and issue the final voter list for holding elections.

For Petitioner : Mr.K.Palanivelrajan, Senior Counsel
For M/s.K.P.S.Law Associates
For Respondents 1 & 2 : Mr.S.Kameshwaran
Government Advocate
For Respondents 3 & 4 : Mr.R.Baskaran, Senior Counsel
For M/s.R.B.Law Associates

W.P.(MD)No.29854 of 2024:-

Syed Abuthahir Syed Ibrahim

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Local Administration,
Fort St. George,
Chennai - 600 009.

2.The District Collector,
Tiruchirappalli District,
Tiruchirappalli.

3.The Commissioner Cum Chief Executive Officer,
Town Vending Committee,
Corporation of Tiruchirappalli,
Tiruchirappalli.

... Respondents



W.P.(MD)Nos.20338, 27088 and 29854 of 2024

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 2nd respondent to consider the representation dated 27.11.2024 and direct the 3rd respondent to publish the draft and final voter list as per Rule 13 (5) of the Tamil Nadu State Vendor (Protection of Livelihood and Regulation of street Vending Scheme and Rules), 2015, to hold election to elect the representatives to the street vending committee.

For Petitioner : Mr.K.Palanivelrajan, Senior Counsel
For M/s.K.P.S.Law Associates
For Respondents 1 to 3 : Mr.T.Amjad Khan
Government Advocate

COMMON ORDER

The prayer in W.P.(MD)No.20338 of 2024 reads as follows:-

“Writ Petition is filed, to direct the respondents to finalize the list of Street Vendors in Tiruchirappalli Corporation Limits and to conduct an election for forming a “Town Vending Committee”, as per the provisions of 'The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014' and 'Tamil Nadu Street Vendors (Protection of Livelihood, Regulation of Street Vending and Licensing) Rules, 2015' in consonance with the order dated 24.10.2018 passed in WP (MD) Nos.10452 and 10503 of 2009, 9877 of 2011, 7326 of 2012, 18676, 19244, 19258, 21090 and 21104 of 2014 and 10060, 10061 and 14348 of 2015 by this Court, by considering the representation of the petitioner's dated 19.08.2024.”

2.The prayer in W.P.(MD)No.27088 of 2024 reads as follows:-

“Writ Petition is filed, calling for the records of the 3rd



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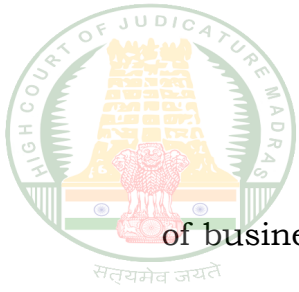
respondent by the impugned Election Notice in Na.Ka. No. Nil dated 04.11.2024, quash the same and direct the 3rd respondent to prepare and publish the voter list of the street vendors having avocation within its territorial jurisdiction, deleting the dead persons, removing the persons who dont fall within the definition of the street vendor under Section 2(1) of the said Act, issue identity cards to the said persons and issue the final voter list for holding elections.”

3.The prayer in W.P.(MD)No.29854 of 2024 reads as follows:-

“Writ Petition is filed, directing the 2nd respondent to consider the representation dated 27.11.2024 and direct the 3rd respondent to publish the draft and final voter list as per Rule 13 (5) of the Tamil Nadu State Vendor (Protection of Livelihood and Regulation of street Vending Scheme and Rules), 2015, to hold election to elect the representatives to the street vending committee”

4.The writ petitioners in W.P.(MD)No.20338 of 2024 are Street Vendors stationed at 11th Cross, Thillai Nagar Streets/cut roads, Trichy, who are engaged in street vending business of selling fruits and fresh juices to the public at large. The petitioner in other two Writ Petitions are one and the same and he is also a Street Vendor, selling readymade clothes at NSV road, 13th ward, Srirangam zone, Trichy.

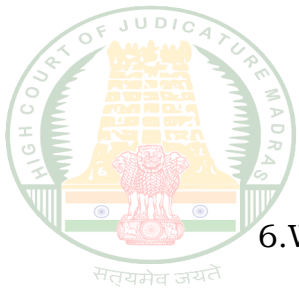
5.The writ petitioners in W.P.(MD)No.20338 of 2024 are Street Vendors, who possess street vendors' identity card as issued by the second respondent. The identity card contains specific details as to the name, type



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of business, duration of vending business and address of the street vendor.

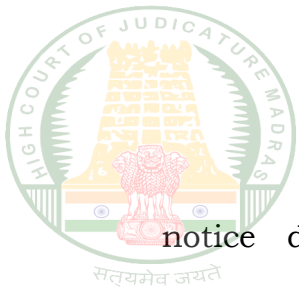
However, from 06.08.2024, on several occasions, the respondent authorities interfered with the peaceful conduct of business of the writ petitioners, by directing them to close their business immediately. Hence, the writ petitioners caused a legal notice on 13.08.2024, calling upon the second respondent not to forbear them from continuing their business as Street Vendors, since the validity of the Street Vendor's identity card subsists till 2027. Even after receiving the said notice and acknowledging the same, the third respondent along with his officers came to the petitioners vending spot and ordered to shut down the vending business on 16.08.2024. Thereafter, the second petitioner gave a representation to the respondents on 19.08.2024 and issued a legal notice as well on 20.08.2024, requesting the respondents to prepare the list of Street Vendors and to conduct election for the purpose of constituting the Town Vending Committee and to implement the earlier order passed by this Court in *Anaithu Tharaikadai Vyaparigal Padukappu Sangam Theppakulam, Trichy & Ors. v. the District Collector, Trichy & Others* in W.P.(MD)Nos.10452 and 10503 of 2009 batch dated 24.10.2018, for the purpose of safeguarding the right of street vending. The said representation was also received and acknowledged by the respondents. However, the representation of the petitioners was not considered and hence, the Writ Petition came to be filed.



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6.While being so, the third respondent, that is, the Commissioner cum Chief Executive Officer, Town Vending Committee of the Corporation of Tiruchirappalli, issued an election notification in Na.Ka.No. Nil dated 04.11.2024, to elect six members for the Town Vending Committee, without publishing the final list of Street Vendors engaged in the vocation of street vending in the area of jurisdiction of Trichy Corporation as stipulated under Rule 13(5) of the Street Vendors (Protection of Livelihood and Regulation of Street Vending Scheme) Rules, 2015 (herein after to be mentioned as Rule 2015). Hence, challenging the said election notification, dated 04.11.2024 and calling upon the third respondent to prepare and publish the voters list of the Street Vendors having vocation within the territorial jurisdiction of Trichy Corporation, by deleting the dead persons and removing the persons, who do not fall within the definition of street vendor under Section 2(1) of the said Act and to issue identity cards to the suitable persons and to issue final voter list for holding elections, W.P.(MD)No.27088 of 2024 came to be filed.

7.Pursuant to the notification of election of six members of the Town Vending Committee, without publishing the final list of voters by incorporating all the Street Vendors, who are engaged in street vending/hawking in the jurisdiction of the Trichy Corporation, the third respondent had appointed the fourth respondent as Returning Officer, scheduling the election process from 04.11.2024 by his impugned schedule



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notice dated 21.10.2024 for holding election to the Street Vendor Committee, which was displayed on the notice board on 04.11.2024, relying upon Section 38(1) of the Street Vendors Act, 2014, (herein after to be mentioned as Act, 2014), which empowers the third respondent in this regard. Having notified the election notification contrary to the Rules mandated in Rule 12(1) of Rules, 2015, the respondent authorities proceeded with the election process and hence, on 27.11.2024, the writ petitioner made a representation to the third respondent, seeking to correct the voter list and publish the draft list ward wise and to include the photos of the said persons, nature of avocation and to issue identity cards. Since the same is not considered, the Writ Petition in W.P.(MD)No.29854 of 2024 came to be filed.

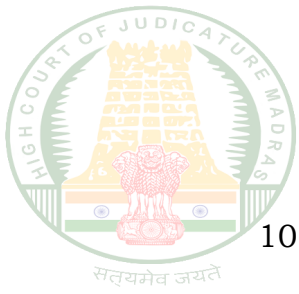
8.Precisely, the plight of the petitioners is that, the third respondent has notified the impugned election notice dated 04.11.2024, for the election of 6 members of Town Vending Committee without following the mandates of the Act, 2014 and Rules, 2015 and without finalizing the list of Street Vendors engaged in the vocation of street vending in the area of jurisdiction of Town Vending Committee pertaining to Trichy Corporation, as it stood on 30 days before the date fixed for inviting nominations for election of the members of Town Vending Committee in terms of Rule 13(5) of Rules, 2015.

9.The learned Senior Counsel appearing for the petitioners submitted



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that no elections for the purpose of electing the members of Street Vending Committee has been conducted, since 2014. However, finally when the elections came to be notified, the same has been done not as mandated under the relevant Act and relevant Rules, but by way of publishing a news column in the name of the Commissioner of Trichy Corporation. The same could not be construed as a notification for election, but the same is only a news. Pointing out that the enabling provision for conduct of election of members of the Town Vending Committee is provided in Rules 12 and 13 of the Rules, 2015. The learned Senior Counsel submitted that the intention of the local authority to conduct election of members of a Town Vending Committee representing the Street Vendors of the area under the jurisdiction of a particular local authority shall be made only by a notification. However, in the instant case, without notifying the election in terms of Rule 12 of Rules, 2015, the same has been published as a daily news. Without notifying the same in terms of Section 2(f) of Act 2014, the respondents have circulated the information as to the conduct of election in this regard, as a local news without following the mandates of Rule 13 of the Rules, 2015. Having not published the election notification in the gazette in terms of Section 2(f) of Act, 2014, the impugned election notification has no legs to stand and will not stand the scrutiny of law and pressed for allowing the Writ Petitions.



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10. Per contra the learned Senior Counsel appearing for the respondent Corporation submitted that notification of the election has been made in the website of the corporation and the same would be treated as an implied notification. In the absence of a proper definition for the term “Official Gazette”, the notification made in the website of the corporation would suffice. Pointing out that the term “notification” as explained in Section 2(f) of Act, 2014, means a notification published in the official gazette and the term 'notify' shall be construed accordingly; the learned Senior Counsel elaborated that State means State gazette, district means District Gazette, but local authority has no separate gazette and hence, the publication of the election notice in the website of the Corporation would suffice, since the term notification is defined in Act, 2014, as that the term “notify” shall be construed accordingly. In view of the same, the election notice in the absence of an official gazette for the Corporation concerned came to be notified in the website of the Corporation. Pointing out the order passed by this Court in W.P.(MD)No.10452 of 2009 batch, the learned Senior Counsel drew my attention to the following directions:-

“22.As the learned Special Government Pleader has fairly submitted that after identifying 3085 hawkers in Tiruchirappalli area, the respondents have also issued 1344 identity cards to the hawkers and the rest of 1741 identity cards are made ready to be issued to the hawkers, we direct the Commissioner, Tiruchirappalli Corporation, to publish the list prepared as of now either in their notice board or in a conspicuous place so that the hawkers, who are not found in the list or aggrieved by not shown in the list, can also submit their full details



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with Aadhar card, ration card, election identity card or any other proof within a week in order to include their names in the list and on receipt of the same, the Assistant Commissioner of each Zone shall consider the inclusion of the new hawkers in the list and thereafter, the Commissioner of Tiruchirappalli shall prepare the election notification and issue the same within a period of 4 weeks thereafter so that the petitioner association and other hawkers, who are not included even as the members of the petitioner association and other associations can also cast their votes in the election to elect their representative, who will be included in the Town Vending Committee so that the Town Vending Committee also will have their representatives.”

11.The learned Senior Counsel further submitted that pursuant to the judgment of this Court in the aforesaid case, the respondents being local authority as per the Act, have taken steps time and again to form the Town Vending Committee in view of implementing the Act, 2014 and the scheme envisaged under Rule, 2015. For the purpose of identifying the Street Vendors in terms of Section 2(l) of Act, 2014, the third respondent had issued work order dated 07.10.2022, through public tender to ensure transparency in preparing the list of Street Vendors in - situ in favor of Sense Image Technologies Private Limited, who in turn had completed the process of identification of 5,231 Street Vendors by 05.03.2024, by issuing certificates and biometric identity cards with QR code, which contains the names and photograph of the Street Vendor, father's/spouse's name, age, phone number, nature of business, type of street vending (stationary



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vendors, mobile vendors or mobile vendors using motor vehicles), location of business, identification number and residential address. A representation was received from one Thiru.A.Ashraf Ali, the Secretary of Manidha Neya Anaithu Varthagar Nala Sangam dated 13.05.2014, pointing out certain errors including spelling mistakes in the issued identity cards and the same was considered and a reply dated 16.05.2024 was issued to the said person requiring the details of the rectification that was sought to be carried out by the aforesaid representation. Another representation has been sent by one Thiru.Ansardheen, the Treasurer of Trichy Mavatta Tharai Kadai/Sirukadai Vyabarigal Sangam on 08.07.2024, stating that among more than 10000 Street Vendors in the said Association, identity cards have been issued only to less than 5000 Street Vendors, however without giving the details of the left out Street Vendors in the said representation.

12.Pursuant to the same, the third respondent vide proceedings in Na.Ka.No.8601/2022/H1(Cen) dated 06.07.2024, had invited the authorities, Street Vendors and representatives of interested Associations for a consultation meeting headed by the Deputy Commissioner, Tiruchirappalli City Corporation, which was scheduled on 10.07.2024 at 03.00 p.m., at the main office of Tiruchirappalli City Corporation, wherein the following persons participated:-

(i)City Health Officer, Tiruchirappalli City Corporation,

(ii)Assistant Commissioner, ward 1 and 2 Tiruchirappalli City



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Corporation,

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(iii)Inspector of Police, Traffic, Tiruchirappalli City Corporation,

(iv)Association of Street Vendors, namely,

(I)Anaithu Tharai Kadai Padhukapu Sangam,

(II)Tiruchirappalli Mavatta Tharai Kadai/Sirukadai Vyavarigal Sangam,

(III)SDTU labour union,

(IV)Manitha Neya Anaithu Varthargal Nala Sangam,

(V)Tiruchirappalli Mavatta Thalluvandi Tarai Kadai Vyavarigal Sangam

and its members and other street vendors.

13.The learned Senior Counsel pointed out that the representatives of Tiruchirappalli Mavatta Tharai Kadai Sirukadai Vyabarigal Sangam, who have caused a representation dated 08.07.2024 and Manithaneya Anaithu Vartahargal Sangam Nala Sangam representatives also participated in the said consultation meeting. The learned Senior Counsel vehemently submitted that as per the conclusion arrived in the aforesaid consultation meeting, the details of the Street Vendors along with their photographs was published in the notice boards in the main office and respective ward offices on 11.07.2024. He further submitted that the special survey in situ to identify the left out Street Vendors was conducted from 11.07.2024 to 25.07.2024. Further he pointed out that, the designated data collection desks were created in the main office and in all ward offices to enable the left out Street Vendors to give their details from 11.07.2024 till 25.07.2024.



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He also made it clear that public announcements through loudspeakers were made in all the wards regarding the special survey for identification of Street Vendors once again and written objections with regard to inclusion of any person as Street Vendor, who are not actually Street Vendors were also required to be sent to the respective ward office before 24.07.2024 by 05.00 p.m. However, the learned Senior Counsel pointed out that no such objections were received from any quarters.

14.He made it clear that the notice of all the aforesaid actions were also published in dailies, namely, Dhinathanthi and Dhinamalar on 10.07.2024 itself. That apart, the special survey in situ for identifying the Street Vendors was further extended till 10.08.2024, to identify the left out Street Vendors based on request and the written objections with regard to inclusion of persons, who are not actually Street Vendors and the notice of the same was again published in dailies, namely, Dhinamani and Dhinathanthi on 25.07.2024. In the follow up special survey in situ, which was conducted, the third respondent identified 989 Street Vendors in addition and the total number of Street vendors identified as on 16.09.2024 is 6220 and the same was also published in the respective ward offices. The new additional list along with the earlier list comprising a total number of 6622 identified Street Vendors was published in Dhinamani, Dhinakaran and Hindu on 24.09.2024 and Dhinamalar on 26.09.2024 by the respondent corporation. After completion of all these procedures, it is

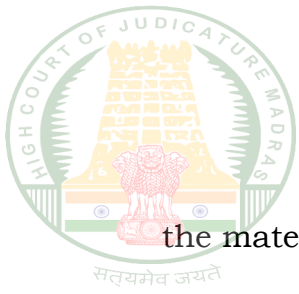


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necessary that 6 representatives of Street Vendors have to be elected for the Town Vending Committee to be constituted by the Government with the Municipal Commissioner along with 14 members, namely, one Medical Officer of the local authority, two police officers including Police in charge of traffic, one officer from the local authority, 6 representatives of street vendors, one representative of trade associations, two representatives of non-governmental and community based organization and one representative of resident welfare association.

15.The learned Senior Counsel pointed out that the election was notified vide notification dated 30.10.2024, by publishing the same in the dailies, namely, Dhinathanthi, Dhinamalar and Dhinakaran, besides publishing it in the official website of the Trichy City Corporation, thus giving wide publicity for the conduct of election of 6 representatives of Street Vendors to the Town Vending Committee. The learned Senior Counsel submitted that this Court has passed an interim order dated 21.11.2024, restraining the respondent corporation from conducting the election. Pointing out that the entire exercise has been carried out only in terms of the relevant Act, 2014 and Rules, 2015, the learned Senior Counsel required this Court to vacate the interim stay order dated 21.11.2024 and dismiss the Writ Petitions.

16.Heard the learned counsels on either side and carefully perused



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the materials available on record.

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17.The sole point to be decided is as to whether the impugned election notified, vide notification dated 30.10.2024, in the official website of Tiruchirappalli City Corporation and later, published in various dailies including Dinathanthi, Dinamalar and Dinakaran for election of six representatives of Street Vendors to constitute the 14-member Town Vending Committee of Tiruchirappalli Corporation is legally sustainable ?

18.Street vendors constitute the last segment of the economic ladder of the urban population. Street vending is a significant self-employment measure adopted by the urban poor for sustaining their livelihood on a day-to-day basis. That apart, the street vending also provides affordable and convenient services to the lower middle class among the urban population and the same is an integral part of the economy of every town/corporation. Enabling the Street Vendors to pursue their livelihoods in a friendly/peaceful atmosphere without harassment is the constitutional duty of the State. Realizing the need for enabling the Street Vendors to earn a decent livelihood without any hindrance or obstruction and without causing any difficulty to the general public, the Government of India found it necessary to enact the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, which came into effect from 1st May 2014 across India. This Act ensures the substantial rights vested with the



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Street Vendors and their right to carry on street vending business which cannot be disrupted except following due process of law. Act 2014 is a complete code, which determines the rights and liabilities of the Street Vendors within the meaning of Section 2(l) of the aforesaid Act. Section 2(l) of Act 2014, defines the term “Street Vendor” and the same is extracted as follows:-

“(l)'street vendor' means a person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public, in a street, lane, side walk, footpath, pavement, public park or any other public place or private area, from a temporary built up structure or by moving from place to place and includes hawker, peddler, squatter and all other synonymous terms which may be local or region specific ; and the words “street vending”, with grammatical variations and cognate expressions, shall be construed accordingly.”

19. Chapter 2 of the aforesaid Act provides regulation of street vending by mandating survey of Street Vendors and protection from eviction or relocation. Issue of Certificate of Vending and conditions for issue of Certificate of Vending and criteria for issue of Certificate of Vending for various categories of vendors is provided under Chapter 2 of the aforesaid Act. The rights and obligations of the Street Vendors are mandated under Chapter 3 of the aforesaid Act. Provisions for relocation and eviction of Street Vendors are provided under Chapter 4 of the aforesaid Act. Chapter 7 deals with the manner, in which a Town Vending Committee for every local



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authority has to be constituted and the functions of the Town Vending Committee. Act, 2014 mandates the appropriate Government to frame a Scheme within 6 months from the date of coming into force of the rules framed under Section 36 of the Act, 2014. The Government of Tamil Nadu in exercise of the powers conferred by Section 36 of the Act, 2014, made the Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2015, vide G.O.Ms.No.159, MA and WS (MA.IV), dated 2nd November 2015. On the same day, in exercise of the powers conferred by Subsection 1 of Section 38 of Act, 2014, the Government of Tamil Nadu framed the Tamil Nadu Street Vendors (Protection of Livelihood and Regulations of Street Vending) Scheme, 2015, (hereinafter to be mentioned as Scheme, 2015) vide G.O.Ms.No.159, MA and WS (MA.IV), dated 2nd November 2015. Clause 6 of the aforesaid Scheme classifies the Street Vendors into 4 categories, namely, stationary vendors, mobile vendors, mobile vendors using motor vehicles and other categories of vendors. The Scheme provides for issuance of identity card and criteria for issuance of certificate of vending on payment of appropriate vending fees. The terms and conditions for issuance of certificate of vending has also been mandated in the aforesaid Scheme. Thus, it is obvious that the issuance of certificate of vending and identity card to the Street Vendors are subject to the rights and liabilities and duties mandated in Act, 2014, Scheme 2015 and Rules, 2015. It is also made clear that the validity of certificate of vending to every Street Vendor shall be valid for a period of 5 years from the date of issue or until



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the next enumeration of Vendors, whichever is earlier. Provision for renewal of certificate of vending for a period of 5 years is also provided in the said Scheme, 2015.

20. In the instant *lis* in hand, the plight of the writ petitioners is that without finalizing the complete list of Street Vendors, the respondent corporation has proceeded to notify the conduct of election for the representatives of Street Vendors, who represent the Town Vending Committee, that too in a manner contrary to the relevant statutes. The significant point to be decided is as to the legal sustainability of the impugned election notification impugned in W.P.(MD)No.27088 of 2024. Rule 12 of Rules, 2015, provides for election of Street Vendors as the member of Town Vending Committee and the same is extracted as follows:-

“12.Election of Street Vendors as the member of Town Vending Committee.”-(1) The local authority shall, by a notification, express its intention to conduct election of the members of a Town Vending Committee representing the street vendors of the area under the jurisdiction of that local authority.

(2) The concerned local authority shall appoint a returning Officer for conducting the election of members of the Town Vending Committee representing the street vendors of the area under its jurisdiction.”

21. The manner of election of the member of Town Vending Committee from amongst the Street Vendors is provided under Rule 13 of Rules, 2015,



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and the same is extracted as follows:-

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“13.Manner of election of the member of Town Vending Committee from amongst the street vendors.- (1) The returning officer appointed under sub-rule 2 of rule 12 shall, conduct the elections of the members of the Town Vending Committee representing the street vendors.

(2)The local authority concerned shall supervise, direct and control the conduct of elections of the members of a Town Vending Committee representing the street vendors in the area of its jurisdiction.

(3)As soon as the notification expressing the intention of the local authority to conduct elections for members of a Town Vending Committee representing the street vendors has been issued under sub-rule (1) of rule 12 and a returning officer has been appointed for conducting the elections under sub-rule (2) of that rule, the local authority, shall, by a resolution, determine the date, time and place for conduct of elections.

(4)(A)The notice of the resolution of the local authority shall be circulated among the street vendors engaged in the vocation of street vending in the area of jurisdiction of the Town Vending Committee, by any of the following modes, namely:-

(a)by public notice to be published in two prominent daily newspapers in Tamil, English or such other language as the local authority thinks fit;

(b)by local delivery;

(c)by post under certificate of posting or

(d)by speed post or courier services, as well as on the notice board of the returning officer.



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(B)The notice shall contain information regarding-

(i)the number of members to be elected, including seats reserved for representatives of Scheduled Castes, Other Backward Classes, women, persons with disabilities, minorities or any other specified categories;

(ii)the date on which, the place at which and the hours between which nomination papers shall be filed and such date being not less than seven clear days before the date fixed for election or if that day happens to be public holiday, the next succeeding day which is not a public holiday;

Explanation. - The term "public holiday" means any day which is a public holiday under section 25 of the Negotiable Instruments Act, 1881 [Central Act XXVI of 1881] or any day which has been notified by the Government to be a public holiday for offices under the Government;

(iii)the date and the hour for scrutiny of the nomination papers; and

(iv)the date, place and hours of polling.

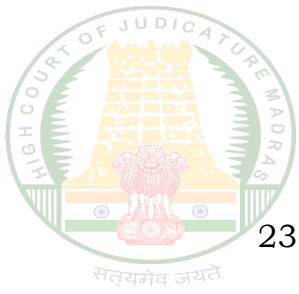
(5)The local authority shall prepare a list of street vendors engaged in the vocation of street vending in the area of jurisdiction of the Town Vending Committee as it stood on thirty days before the date fixed for inviting the nominations, and publish copies of the said list by affixing them upon the notice board at the office of the Town Vending Committee, not less than ten days prior to the date fixed for inviting nominations. The list shall specify the registration number/ certificate of vending and the name of the street vendor, the name of the father or husband, as the case may be, and the address of the street vendor. It shall be the duty of the Town Vending Committee or the local authority, as the case may be, to bring up-to-date register of



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street vendors and such other register as the returning officer may require and hand over such records or registers to the returning officer thirty days prior to the date fixed for the purpose of election. A copy of the list shall be supplied by the Town Vending Committee or the local authority, or returning officer, as the case may be, to any street vendor on payment of such fee as specified by the local authority.”

22.Trichy Corporation is the local authority in the instant case and the learned Senior Counsel categorically submitted that already the local authority, that is, the Trichy Corporation has finalized the list of Street Vendors by engaging Sense Image Technologies Private Limited to carry out preparation of the list of Street Vendors in-situ and has finalized a list of 6220 Street Vendors and the same has already been published in the respective wards and various dailies as early as on 24.09.2024 and 26.09.2024. Thereafter, the voters list was published on 18.09.2024 and filing of nominations was opened on 04.11.2024 and the last day for receiving nominations was 11.11.2024 and the nominations were scrutinized on 12.11.2024 and the last date for withdrawal of nominations was on 13.11.2024. It was also further brought to the notice of this Court that the list of contesting candidates was published on 14.11.2024 and the election was scheduled to be conducted on 22.11.2024 at Jamal Muhammad College, Tiruchirappalli.



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23.While being so, this Court has passed an order of interim stay on 21.11.2024, restraining the respondents from conducting the election for the reason that the election notification is not notified in terms of Section 2(f) of Act, 2014. Rule 12 of Rules, 2015, has mandated that the local authority by notification express its intention to conduct election of the members of a Town Vending Committee representing the Street Vendors of the area under the jurisdiction of that local authority. However, the Trichy Corporation instead of notifying the same in the official gazette has preferred to publish the same in the official website of the Trichy Corporation and has proceeded to conduct the elections. Section 2(l) of Act 2014, makes it clear that notification means a notification published in the Official Gazette. Official Gazette is nothing but in the case of State, it would be the State Gazette and in the case of district, the same would be the District Gazette. Since the corporation functions within the jurisdiction of a particular district, the Gazette concerned would be the District Gazette and only on publishing the notification in the District Gazette, the local authority, that is, the third respondent ought to have proceeded with the election process.

24.Having not done so, I have no hesitation to hold that the impugned notification will not stand the scrutiny of law. When a statute makes it mandatory for the authorities to carry out certain procedures in a particular manner, the competent authority should carry out the same as mandated by the relevant statute and not otherwise.



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25.It is needless to state that Act, 2014 and Rule, 2015 has mandated to publish the notification of election of Street Vendors as the member of Town Vending Committee in the Official Gazette and in this case, the District Gazette would be the concerned Official Gazette. The Hon'ble Apex Court in the case of **I.T.C., Bhadrachalam Paper Boards and another versus Mandal Revenue Officer, Andhra Pradesh and others** reported in **1996 (6) SCC 634**, has held that '*the object of publication in the gazette is not merely to give information to public. Official gazette, as the very name indicates, is an official document. It is published under the authority of the Government. Publication of an order or rule in the gazette is the official confirmation of the making of such an order or rule. The version as printed in the gazette is final. The same order or rule may also be published in the newspapers or may be broadcast by radio or television. If a question arises when was a particular order or rule made, it is the date of gazette publication, that is, relevant and not the date of publication in a newspaper or in a media*'. In the instant case, the learned Senior Counsel categorically contended that the election notification has been published in the official website and also widely circulated in various newspapers.

26.However, I am fully fortified by the judgment of the Hon'ble Apex Court in the aforesaid case. I am of the considered view that until and unless the same is notified in the Official Gazette, that is, the District



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Gazette in terms of section 2(l) of Act 2014, the procedure mandated under Rule 12 and 13 of Rules, 2015, could not be considered as completed by the respondent authorities. When the intention of conduct of election of Street Vendors as member of Town Vending Committee has to be exercised by issuing notification for publication in the Official Gazette, the same has to be exercised only by publishing the same in the District Gazette. Deviation of the same in any manner would render the said election notification as void. Accordingly, the impugned election notification in Na.Ka.No.Nil dated 04.11.2024, is hereby set aside.

27. Since all the other procedure with respect to finalization of the list of Street Vendors has already been completed in terms of Act, 2014 and Rules, 2015 and since the third respondent has also filed an elaborate counter affidavit in this regard, the third respondent is directed to issue a fresh election notification for election of Street Vendors as the member of Town Vending Committee afresh by publishing the same in the District Gazette in terms of Act, 2014 and Rules, 2015. However, the third respondent corporation is directed to remove the names of dead persons if any, in the name in the finalized list of Street Vendors within a period of three weeks from the date of receipt of copy of this order. It is further directed that none of the Street Vendors be unlawfully evicted till the conduct of election, by issuing certificate of vending to all Street Vendors as per Section 3(3) of the Act, 2014. After election, if relocation of any of the



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Street Vendors is found necessary, the said exercise shall be carried out strictly following Clause 13 of the Scheme, 2015.

28. Accordingly, the Writ Petitions are allowed. There shall be no order as to Costs. Consequently, connected miscellaneous petitions are closed.

07.03.2025

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



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To

- 1.The District Collector,
Trichy Collectorate Building,
Trichy - 620 001.
- 2.The Commissioner,
Corporation of Tiruchirappalli,
Trichy District.
- 3.The Assistant Commissioner,
Ko-Abhisekapuram,
Corporation of Tiruchirappallil,
Trichy District.
- 4.The State of Tamil Nadu,
Represented by its Secretary,
Local Administration,
Fort St. George,
Chennai - 600 009.
- 5.The Commissioner Cum Chief Executive Officer,
Town Vending Committee,
Corporation of Tiruchirappalli,
Tiruchirappalli.
- 6.The Returning Officer Cum Assistant Commissioner,
Tiruchirappalli Corporation,
Tiruchirappalli.



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L.VICTORIA GOWRI, J.

Mrn

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07.03.2025