

(2003) 02 MAD CK 0163

In the Madras High Court

Case No : Writ Petition No. 5387 of 2003 and WPMP No. 6934 of 2003

M.T.C. Licensed Advertisers Association

APPELLANT

Vs

Metropolitan Transport Corporation

RESPONDENT

Date of Decision : 26-02-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 02 MAD CK 0163

Hon'ble Judges : P. Sathasivam, J

Bench : Single Bench

Advocate : Ar.L. Sundaresan, for the Appellant; G. Muniratnam, for the Respondent

Judgement

P. Sathasivam, J.—M.T.C. Licensed Advertisers Association through its secretary has filed the above Writ Petition to issue a Writ of Mandamus, forbearing the respondent from terminating the existing arrangements with the members of the petitioner Association and from interfering with the rights of the members of the petitioner Association to continue to use the bus shelters allotted to them by the respondent and taking possession of the bus shelters except by due process of law.

2. Heard Mr. AR.L. Sundaresan, learned counsel for the petitioner and Mr. G. Muniratnam, learned counsel for the respondent.

3. The case of the petitioner Association is briefly stated hereunder:

According to them, the petitioner Association is registered under the Tamil Nadu Societies Registration Act. The respondent Corporation has been operating buses for facilitating commuters within the City of Chennai for the past several decades. The respondent, as the sole authority, has decided and identified the locations meant for bus stops which would be convenient for the passengers to alight from and get into the buses enroute their destinations. Though there were more than about 2500 bus stops in the city of Chennai, there were only 350

shelters which had been provided by the respondent. As such during the year 1996, the respondent Corporation came out with the proposal of allotting locations to persons who came forward as the specified locations in which the sponsors would be permitted to have display of advertisements. When the said proposal was floated by the respondent Corporation, the members of the petitioner Association were the persons who evinced some interest in the said project and approached the respondent for such purpose of allotment of location of bus stops. Initially the respondent had fixed up the period of allotment as a continuous period of 10 years, thereby providing the operators an avenue for getting back their investments in the erection of the bus shelters. After allotment of respective locations, the respondent also entered into appropriate agreements with the members of the petitioner in respect of the allotted locations for the purpose of enabling the sponsors to put up the bus shelters. During September, 2001, the respondent Corporation issued a circular to all the sponsors intimating that the respondent had decided to convert all the bus shelters into illuminated ones. The said circular was dated 21-09-2001. The sponsors were requested to convert the existing ordinary shelters into Glow-sign shelters coupled with the payment being the differences of royalty payable for a glow-sign shelter. The respondent also issued another circular on 7-3-2002 intimating the members that the respondent has decided to increase the height of the advertisement board from 3 feet to 4 feet. Subsequently, the respondent restricted the allotment period to 5 years from 10 years. Unable to face unnecessary, unreasonable and un-warranted difficulties at the hands of the respondent, the Association has filed the present writ petition for appropriate direction.

4. Pursuant to the direction of this Court, the Managing Director, Metropolitan Transport Corporation (Chennai) Limited, Chennai-2 has filed a counter affidavit highlighting their stand. It is stated that the respondent Corporation is engaged in the operation of public transport system in the Metropolitan city of Chennai and is operating buses for the public. There are about 2500 bus stops within this operational area. The shelters are erected at the bus stops for the convenience of the waiting passengers to protect them from sunlight and rain. Since 1974, the M.T.C has been erecting shelter under the World Bank aid programme. Due to financial constraints, the respondent could not erect bus shelters from its own funds; hence it invited State Government undertakings, Organisations for erecting shelters under donor scheme. Under this scheme, the sponsors were allowed to erect bus shelters allotted to them and they had to pay royalty to the respondent corporation and the sponsors were allowed to exhibit advertisement on the front facia. Whoever comes first, they were allowed to sponsor the bus shelters on the basis of first come first served and they were allowed to sponsor the shelter initially for a year and renewable every year for 10 years. Thereafter, the period has been reduced to 5 years renewable every year. The sponsor is permitted to display the advertisement as approved by the respondent Corporation on the front facia. The sponsors have to pay the royalty amount and also have to pay advertisement tax to the Corporation of Chennai. The sponsor

has to enter into an agreement with the respondent Corporation for all the terms and conditions governing the erection, maintenance of the bus shelter. It is further stated that the sponsors having agreed to the terms and conditions and executed the agreement, started violating the terms and conditions of the agreement and also defaulted in the payment of royalty amount as agreed to by them. Though the agreement does not provide for any notice to be given by the respondent Corporation, whenever the sponsors violated the terms and conditions of the agreement or defaulted in the payment of royalty amount, the respondent Corporation had issued notice to the sponsors bringing to their notice the default in payment of royalty and specific violations of the terms and conditions. After noticing various violations, unilateral increase in the size of the advertisement board against the prescribed limit, default in payment of royalty, the respondent had issued termination order to such of those who have blatantly violated the terms and conditions of the agreement and also who have defaulted in the payment of royalty amount. The Corporation after giving sponsors due opportunity have terminated the sponsorship of specific bus stops for violation. It is further stated that inasmuch as some of the members have filed separate writ petitions highlighting their grievance, the present writ petition by the Association is not maintainable.

5. There is no dispute that the present writ petition is by M.T.C. Licensed Advertisers Association. Though the petitioner has furnished a list of members of their Association, considering the question raised, namely, that the members were not given notice or any enquiry, I am of the view that the Association cannot maintain the present writ petition. In a matter like this, it is open to the individual aggrieved person to furnish details regarding the sponsorship agreement, terms and conditions, violation if any and assert that he/she was not given notice or not enquired prior to taking action against them. In the counter affidavit of the respondent, in more than one place, it has been specifically stated that after giving due opportunity and notice, the respondent Corporation terminated their sponsorship for specific violation. In those circumstances, in the light of the grievance expressed, I am of the view that the present writ petition filed by the Association is not maintainable. It is also useful to refer a decision of a Division Bench of this Court in *TAMIL NADU OUTDOOR ADVERTISING ASSOCIATION v. STATE*, reported in 2001 (2) CTC 103 wherein, after referring to various decisions of the Apex Court, the Bench has concluded that "the writ petition filed by the Associations, partnership firms, business concerns and companies on the basis of violation of fundamental rights cannot be sustained as they are not citizens...".

6. As already observed, the grievance sought to be made out by the Association in general terms cannot be countenanced. If in a given case any prejudice or illegality or damage is specifically raised or sought to be vindicated, then only this Court can entertain such individual claims for consideration and adjudication. Similar view has been expressed by this Court in *W.P. No. 12798/85* dated 25-6-94 and *W.P. No. 17497/94* dated 14-9-99. It is also useful to refer another

decision of V. Kanagaraj, J., in Shenbagam Garden HIG House Allottees Association Vs. State of Tamil Nadu and 2 others, : wherein, in similar circumstance, the learned Judge has held that the writ petition filed by the Association is not maintainable.

7. In the light of what is stated above, more particularly in the light of the assertion made by the respondent Corporation that they had issued notice to the sponsors bringing to their notice the default in payment of royalty and specific violations of the terms and conditions, I am of the view that it is for the individual member/members of the Association to highlight his or her grievance by furnishing all the material details. On this ground, the present Writ Petition is liable to be dismissed. It is also relevant to note that 3 members of the petitioner Association have already filed individual writ petitions, namely, W.P. Nos. 3924/2003, 3889/2003, and 4057/2003 and it is not disputed that the same are pending before this Court. Considering all these aspects, the Writ Petition is dismissed. No costs. However, it is made clear that the individual member/members have any grievance, it is open to them to challenge the same by placing relevant materials. Consequently, WPMP. No. 6934/2003 is also dismissed.