

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.9927 of 2020

N.Rajkumar

... Petitioner

.. Vs ..

1. The Chief Secretary to Government,
Government of Tamil Nadu,
Secretariat, Fort. St. George,
Chennai - 600 009.
2. The Secretary to Government,
Government of Tamil Nadu,
Secretariat, Fort. St. George,
Chennai - 600 009.
3. The Secretary to Government,
Govt of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Fort. St. George, Chennai - 600 009.
4. The Commissioner,
Corporation of Greater Chennai,
Rippon Buildings, Chennai - 600 003.
5. The Tamil Nadu Pollution Control Board,

Rep by its Member Secretary,
Poonamallee High Road,
Arumbakkam, Chennai - 600 106.

6. The Executive Engineer,
Public Works Department,
High Court Campus,
Chennai - 600 104.

... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to (a) ban Spitting in Public and made punishable under the provisions of Prohibition of Smoking and Spitting Act, 2002 and strictly implement the same; (b) direct the Public Health Board to provide Public Sanitary conveniences and regulate deposit of rubbish/ garbage on streets in total implementation of prohibition of defecation in Open Place Act, 2019 passed by the Government of India; (c) manage and segregate waste in a scientific manner, more particularly medical hazardous and toxic waste and other plastic waste, to prevent the spread of COVID Pandemic and other epidemics, to prevent environment pollution and the authorities to file a report on disposal track of such waste; (d) monitor all staff of private and Government establishments are provided with sufficient toilets and levy penalties on faulting staff who defecate on public streets/roads; (e) implement the Solid Waste Management Rules, 2016 strictly all over the state of Tamil Nadu and levy penalties as per the act on the persons who have not implemented the same in violations of the said Act; and (f) give widespread consciousness and awareness at all

public places by installation of boards and spreading message to practice social distancing and wearing of appropriate masks which will prevent infection.

For Petitioner : Mr.M.Gnanasekar

For Respondents : Mr.R.Vijaya Kumar,
Addl.Govt.Pleader for RR1 to 3
: Mr.R.Gopinath for R4

ORDER

[Order of the Court was made by M.M.SUNDRESH,J.]

This writ petition has been filed by the petitioner, who is a practicing Lawyer, seeking appropriate action on the part of the respondents towards the banning of spitting in public in tune with the provisions of The Prohibition of Smoking and Spitting Act, 2002, particularly, in the light of Pandemic situation.

2. Today, when the matter is taken up for hearing, Mr.R.Vijayakumar, learned Additional Government Pleader produced a Government Order in G.O.(Ms.) No.326, Health and Family Welfare (AB2) Department, dated 04.09.2020, by which, in exercise of power conferred under Section 138-A of the Tamil Nadu Public Health Act, 1939, relevant Rule has been framed indicating the punishment for non

wearing of mask, violating social distancing and spitting in public places

which reads as follows:-

"THE RULE

The offences punishable under sub-section (2) of Section 76, of the Tamil Nadu Public Health Act, 1939 (Tamil Naud Act III of 1939), as specified in column (2) of the Table hereunder are declared as compoundable for the amount specified in the corresponding entry in column (3) thereof.

THE TABLE

Serial No.	Offences	Amount Rs.
(1)	(2)	(3)
1.	Violation of Quarantine measures as ordered by the appropriate authority from time to time.	500/- (Rupees five hundred only)
2.	(i) Non wearing of mask covering mouth and nose as ordered by the appropriate authority from time to time.	200/- (Rupees two hundred only)
	(ii) Spitting in public places.	500/- (Rupees five hundred only)
	(iii) Violation of social distancing norms by individuals in public	500/- (Rupees five hundred only)

Serial No.	Offences	Amount Rs.
	places of gatherings as ordered by the appropriate authority from time to time.	
3.	Violation of Standard Operating Procedures in salon and spa, gymnasium, commercial establishments or such other public places as ordered by the appropriate authority from time to time.	5000/- (Rupees five thousand only)
4.	Non-adherence of the guidelines issued by the Government to be followed in containment zone :- (i) by individuals	500/- (Rupees five hundred only)
	(ii) in respect of vehicles or commercial establishments	5000/- (Rupees five thousand only)

3. Though the aforesaid rule has come into being, the learned counsel for the petitioner submitted that it has not been followed in letter and spirit. We have already issued appropriate directions earlier to the authorities in the State of Tamil Nadu to implement the provisions strictly. We only reiterate that the amended Rule which came into being

pursuant to the above said Government Order dated 04.09.2020 will have to be implemented strictly by the respondents. Due publicity will have to be given on the Rule and the action that is likely to be taken.

4. Insofar as the other issues sought to be raised by the learned counsel for the petitioner with respect to segregation of medical wastes with the other wastes, we are not willing to go into the same for want of appropriate respondents. Accordingly, we are not inclined to go into the same. However, liberty is given to the petitioner for filing a comprehensive writ petition.

5. This Writ Petition is disposed of with the above directions. No costs.

[M.M.S.,J] [R.H., J]

17.09.2020

Index : yes / no
Speaking / Non Speaking Order

Jrl/kmk

To

1. The Chief Secretary to Government,

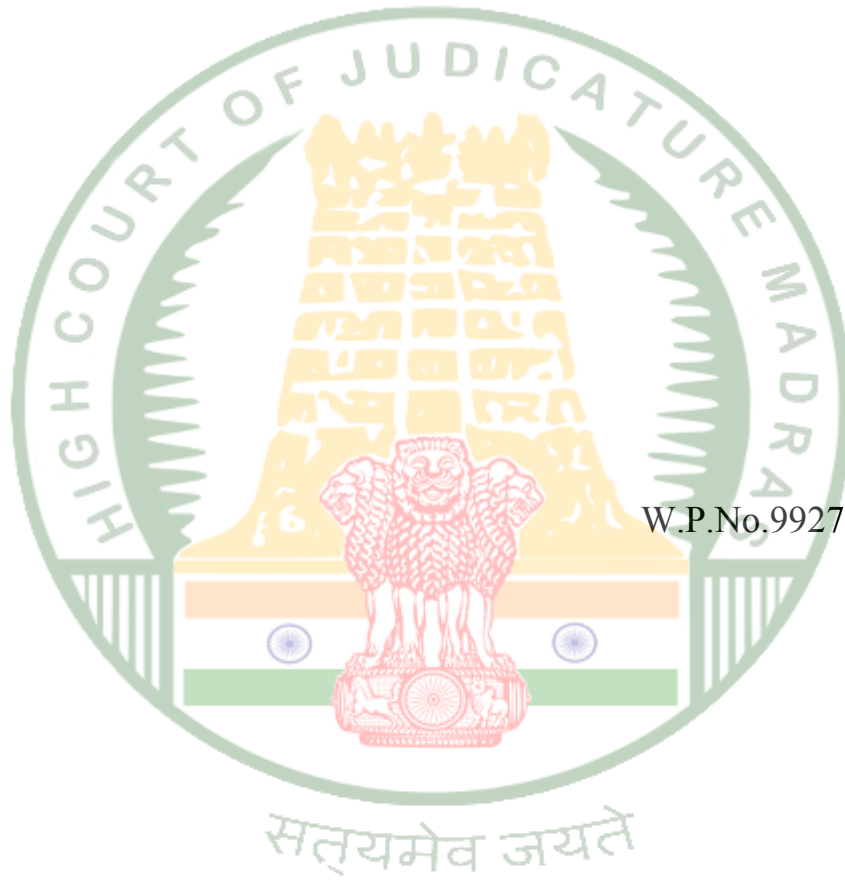
Government of Tamil Nadu,
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**M.M.SUNDRESH.J.,
AND
R.HEMALATHA, J.**

Jrl/kmk



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