

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2016

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 19098 of 2016

&

W.M.P. Nos. 16639 & 16640 of 2016

O.L. Kannan

Petitioner

Vs.

1. The District Collector  
cum Inspector of Panchayat,  
Dharmapuri District,  
Dharmapuri.
2. The Assistant Director,  
Panchayat,  
Office of District Collector,  
Dharmapuri.
3. The Commissioner/Block  
Development Officer,  
Pennagaram Panchayat Union,  
Pennagaram - 636 810,  
Dharmapuri District.

... Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus forbearing the respondents and their subordinates from inviting the applications or issuing any fresh notification to operate the Boat Transport at Ottanur-Kottaiyur in Pennagaram Panchayat Union, Dharmapuri District, consequently directing the respondents to allow the petitioner to operate the Boat Transport at Ottanur-Kottaiyur in the 3<sup>rd</sup> respondent Panchayat Union from 01.07.2016 to 30.06.2017.

For Petitioner :: Mr.M.R. Jothimanian

For Respondents:: Mrs.P. Kavitha,  
Govt. Advocate

## O R D E R

This writ petition is filed for issue of a Writ of Mandamus forbearing the respondents and their subordinates from inviting applications or issuing any fresh notification to operate the Boat Transport at Ottanur-Kottaiyur in Pennagaram Panchayat Union, Dharmapuri District and consequently to direct the respondents to allow the petitioner to operate the Boat Transport at Ottanur-Kottaiyur in the 3<sup>rd</sup> respondent Panchayat Union from 01.07.2016 to 30.06.2017.

2. The petitioner is a registered Contractor and licence holder with the Rural Development Department, particularly, with the 3<sup>rd</sup> respondent Panchayat Union. According to the petitioner, he has vast experience in the matter of running Boat Transport for the public with the 4<sup>th</sup> respondent Panchayat Union. The petitioner further states that the 3<sup>rd</sup> respondent has authority to grant permission for operating Boat Transport viz Ottanur to Kottaiyur and every year, notification would be issued with regard to grant of licence for the same. While so, a notification was issued on 29.06.2015 inviting applications from registered contractors/licence holders with regard to Boat Transport viz., Ottanur-Kottaiyur Boat Junction. Subsequently, the auction was held on 02.07.2015 and the petitioner was the successful bidder in the said auction and he paid a sum of Rs.2,45,967/- to the 3<sup>rd</sup> respondent. The petitioner was granted licence for the period of one year from 03.07.2015 to 30.06.2016 and certain conditions were also imposed with regard to safety of passengers, students and public. According to the petitioner, pursuant to grant of licence, the petitioner was operating Boat Transport from 03.07.2015 without any violation of conditions imposed. However, the 1<sup>st</sup> respondent, due to the accident which took place at Hogenakkal on 30.08.2015, stopped boat service in Dharmapuri District on 01.09.2015 and therefore, the petitioner was not permitted to operate Boat Transport at Ottanur-Kottaiyur as per the order of the 3<sup>rd</sup> respondent dated 08.07.2015. The petitioner also states that subsequently, several meetings were conducted with regard to safety measures to be adopted in Boat Transport with all the respective authorities and licence holders and thereafter, permission was given to licence holders to run the boat service. However, the petitioner alone was not permitted to operate the boat service. The petitioner made several requests to the respondents to permit him to resume the boat service and the 3<sup>rd</sup> respondent sent a recommendation dated 16.12.2015 to the 1<sup>st</sup> respondent to consider the request made by the petitioner. However, the said recommendation is still pending before the 1<sup>st</sup> respondent and the grievance of the petitioner is that having invested huge sum of money and having obtained licence, he has

not been permitted to operate the boat service, resulting in heavy loss and further, steps are being taken by the respondents to issue fresh notification for grant of licence for the period from 01.07.2016 to 30.06.2017, as the period of licence granted to the petitioner comes to a close on 30.06.2016. Hence, the petitioner has come forward with the present writ petition.

3. Heard Mr.M.R.Jothimanian, learned counsel for the petitioner.

4. Mrs.P. Kavitha, learned Government Advocate, appearing on behalf of the respondents, would submit that the petitioner did not follow the safety measures, while operating the boat service and the same was found out, on inspection made by the authorities, which necessitated the passing of order dated 05.11.2015 and for consequential issuance of notification by the Block Development Officer inviting fresh tenders for grant of licence. Hence, the learned Government Advocate opposed the writ petition.

5. A perusal of the records would reveal that there were meetings held by the authorities concerned on 10.09.2015, 14.09.2015 and 15.09.2015 and finally, the Block Development Officer made an inspection on 05.11.2015. Pursuant to the inspection conducted on 05.11.2015, orders were passed by the Block Development Officer, on the very same day itself, terminating the licence of the petitioner. It is very clear from the order dated 05.11.2015 that the same had been passed based on the inspection report dated 05.11.2015. However, nowhere in the order dated 05.11.2015, it is found stated that the petitioner was issued with a show cause notice and that he was given a copy of the inspection report, prior to termination of the licence granted to the petitioner. Therefore, the order dated 05.11.2015, cannot be sustained, for violation of principles of natural justice.

6. Though the petitioner has sought issuance of a Writ of Mandamus, this Court, taking into account, the facts of the case, moulds the prayer and quashes the order dated 05.11.2015, by which the petitioner's licence came to be cancelled.

7. There is no dispute with regard to the licence granted to the petitioner for the period from 03.07.2015 to 30.06.2016 and that he was prevented from operating boat service from 01.09.2015. The said fact is also admitted in the order dated 05.11.2015. Therefore, it is clear that only for two months, the petitioner was allowed to operate the boat service and for the rest of the period, namely, 10 months, the petitioner was not allowed to run the boat service, for which he needs to be

compensated, though the period of licence granted to him comes to an end on 30.06.2016.

8. Since the order dated 05.11.2015, terminating the licence of the petitioner, has been quashed by this Court today, the respondents are directed to permit the petitioner to run the boat service at Ottanur-Kottaiyur, Pennagaram Panchayat Union, Dharmapuri District, for a period of 10 months, commencing from 21.06.2016 onwards. The 3<sup>rd</sup> respondent is directed to pass suitable orders permitting the petitioner to run the boat service, for a period of 10 months, from 21.06.2016 onwards, on or before 20.06.2016 and the action taken report shall be filed by the 3<sup>rd</sup> respondent before this Court on 22.06.2016. It is further made clear that in view of the quashing of the order dated 05.11.2015, there cannot be any auction conducted by the respondents for grant of fresh licence for running boat service at Ottanur-Kottaiyur, at least for a period of 10 months.

8. The writ petition is disposed of with the above directions. No costs. Connected W.M.Ps. are closed.

9. For reporting compliance, call the matter on 22.06.2016.

Sd/-  
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

nv

1. The District Collector  
cum Inspector of Panchayat,  
Dharmapuri District, Dharmapuri.
  2. The Assistant Director,  
Panchayat, Office of District Collector,  
Dharmapuri.
  3. The Commissioner/Block  
Development Officer,  
Pennagaram Panchayat Union,  
Pennagaram - 636 810, Dharmapuri District.
- 1 cc to Mr.M.R.Jothimanian, Advocate, sr.32234  
1 cc to Government Pleader, sr.3239

W.P. No. 19098 of 2016

scd co  
kra 14.06.2016