

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.10.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14884 of 2015
and
M.P.Nos.1, 2 & 3 of 2015

S.Ramaswamy

... Petitioner

vs

1. The Joint Commissioner,
Commercial Tax Office,
Dr. Balasundaram Road,
Coimbatore 641 018.
2. The Executive Engineer,
Public Works Department B & M Department ,
Coimbatore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, Calling for the records pertaining to the Order dated 21.04.2015 vide RC.No. 3473 / 2015 / A3 passed by the 1st Respondent and the show cause notice issued by the 1st Respondent dated 29.04.2015 to the petitioner and quashing the same and subsequently direct the 1st Respondent to reissue the NOC with respect to running of the canteen by the petitioner at the Commercial Tax Office premise, Dr.Balasundaram Road Coimbatore 641018.

For Petitioner : Mr.A.Suresh Sakthi Murugan
For Respondent 1 : Mr.M.Hariharan
Addl.Government Pleader (Taxes)
for R2 : Mr.R.S.Selvam,
Government Advocate.

O R D E R

The show cause notice and withdrawal of no objection certificate granted in favour of the writ petitioner is under challenge in this writ petition.

2. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner was the highest bidder for the purpose of running canteen at the Commercial Tax Office premises and the petitioner was running the canteen from the year 2007 onwards. The lease was granted through public auction for the period of 3 years. It was initially granted to from 16.02.2007 to 15.02.2010 for a monthly rent of Rs.1114/-. The premises was again auctioned and the petitioner was a successful bidder and the lease was executed in his favour for a monthly rent of Rs.1,206/-.

3. The grievances of the writ petitioner is that the no objection certificate granted for the purpose of running the canteen in the office premises was cancelled by the respondent, after completion of the tender process conducted third time more specifically for the years 2015-2018. Thus, the authorities after completion of the tender process cannot cancel the no objection certificate to be granted to the writ petitioner.

4. The show cause notice issued in proceedings dated 29.04.2015 states that the no objection certificate issued by the department is cancelled as the place the writ petitioner put up construction is required for the department.

5. This Court is of an opinion that the lease was executed during earlier occasions only on the monthly payment and therefore, the writ petitioner cannot seek the further lease as a matter of legal right. Undoubtedly, the writ petitioner was continuing in the premises and was running the canteen from the year 2007 onwards. However, the same will not give any further right to the writ petitioner to continue the canteen business for longer period. When the department is of an opinion that the said place is required for the purpose of department activities, then the writ petitioner have no right to continue in the premises.

6. The learned counsel appearing on behalf of the respondents also states that the said premises was not granted in favour of any other person and it is kept for the usage of the department. This being the factum of the case, the petitioner cannot attribute any motive on the part of the officials concerned, since the premises are not granted in favour of any other persons for the purpose of running canteen. Under these circumstances, the writ petitioner has not established any legal right so as to consider the relief as such sought for in this present writ petition.

7. Accordingly, the present writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

pkn/pns

To,

1. The Joint Commissioner,
Commercial Tax Office,
Dr. Balasundaram Road,
Coimbatore 641 018.
2. The Executive Engineer,
Public Works Department B & M Department ,
Coimbatore.

+1cc to Government Pleader sr.no.73515

+1cc to Special Government Pleader sr.no.73639

W.P.No.14884 of 2015

sj(co)
nr 28/11/2018

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