IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.2557 of 2018
and W.M.P.No.3132 & 3133 of 2018

Nandika Sandhiappan ...Petitioner

Vs.

The Commissioner,
Kancheepuram Municipality,
Government of Tamil Nadu,
Kancheepuram - 631 502. ...Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent in proceedings Na.K.No.288/2015/A1, dated 31.01.2018 and consequential proceedings Na.Ka.No.288/2013/A1, dated 31.01.2018 and quash the said orders dated 31.01.2018 and further forbear the respondents from authorizing any person, other than the petitioner herein for daily collection of rent from road side temporary shops as mentioned in proceedings No.Na.Ka.No.288/2015/A1, dated 29.12.2017 issued by the respondent herein.

For Petitioner : Mrs.Hema Sampath
for M/s.L.Muralikrishnan
For Respondent : Mr.G.B.Rajesh

ORDER

This writ petition has been filed for issuance of a writ of certiorarified mandamus to quash the orders of the respondent dated 31.01.2018, in Na.Ka.No.288/2015/A1 and Na.Ka.No.288/2013/A1, and for a direction to forbear the respondent from authorising any person other than the petitioner herein in daily collection of rent from the roadside temporary shops as mentioned in proceedings dated 29.12.2017 in Na.Ka.No.288/2015/A1.

2. Heard Mrs.Hema Sampath, learned Senior Counsel appearing for M/s.L.Muralikrishnan, learned counsel for the petitioner and Mr.G.B.Rajesh, learned counsel for the respondent and perused

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the materials available on record.

3. By consent of both sides, the writ petition is taken up for final disposal.

4. The case of the petitioner is that the respondent had issued a notification dated 22.12.2017 calling for bids in respect of various tenders for different works in the District of Kancheepuram. The petitioner submitted her bid in respect of item No.4 of the said notification, that is for daily collection of rent from the street side shops for a period of three years and she was declared as a successful bidder. As per the conditions, the petitioner has remitted a sum of Rs.15,15,000/-.

5. The grievance of the petitioner is that the respondent has cancelled the licence of the petitioner without giving any opportunity, which is against the principle of natural justice.

6. The learned Senior Counsel for the petitioner submitted that as per the order of the respondent dated 29.12.2017, the petitioner was permitted to collect daily rent from the street vendors commencing 01.01.2018 and the petitioner started collecting the amount from 03.01.2018, as per the conditions incorporated in the licence. However, the respondent issued a show cause notice dated 10.01.2018 alleging that the petitioner is collecting excess amount from the street vendors and the petitioner has not executed a lease deed in 100 rupees non judicial papers, for which the petitioner submitted her explanation / reply dated 18.01.2018, specifically denying the allegation of collection of excess licence fee.

7. The learned Senior Counsel further submitted that the show cause notice was issued based on the complaints dated 03.01.2018 and 05.01.2018, but those copies were not furnished to the petitioner. Further the explanation of the petitioner was not taken note of, while the impugned order was passed. It is further contended that the petitioner was issuing receipt for collection of amount and if an opportunity is given, she would give all the proof to substantiate her case.

8. The learned standing counsel for the respondent submitted that the petitioner was permitted to collect daily fees from the street vendors from 01.01.2018 and in view of the complaints dated 03.01.2018 and 05.01.2018, for collection of excess amount, licence was cancelled. The learned counsel also submitted that the reply / explanation submitted by the petitioner was also taken into consideration.

9. In the instant case, it is not in dispute that the petitioner was issued with licence for collection of the daily rent from road side vendors for a period of three years

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commencing from 01.01.2018. The case of the respondent is that the petitioner collected excess rent from the street vendors, and based on the complaints dated 03.0.1.2018 and 05.01.2018, licence was cancelled. The main grievance of the petitioner is that she was not afforded an opportunity before cancellation of the licence, despite the fact that she is having materials to substantiate her case that she did not collect excess fee from the street vendors.

10. A perusal of the reply shows that the petitioner had put forth her case in black and white. Though the respondent contended that the reply submitted by the petitioner was also taken into consideration, from the perusal of the impugned order, it is evident that no discussion or reference is made with regard to the reply of the petitioner. Further indisputably, no opportunity was provided to the petitioner to put forth her case and the impugned order came to be passed in violation of the principles of natural justice.

11. In the light of the above facts, the orders impugned in this writ petition cannot be sustained. In that view, they are set aside and the matter is remanded back to the respondent to pass orders afresh, after providing opportunity to the petitioner.

12. With the above observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

pvs
To
The Commissioner,
Kancheepuram Municipality,
Government of Tamil Nadu,
Kancheepuram - 631 502.

+1 CC to Mr.L. Muralikrishnan, Advocate sr 10670.
+1 CC to Mr.G.B. Rajesh, advocate sr 10718

WP.No.2557 of 2018

AD(CO)
SP(22/02/2018)

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