



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 25.09.2018

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**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

W.A. (MD)No.1257 of 2014 and
M.P. (MD)Nos.1 and 2 of 2014

K.M.Meeran Mohideen

.. Appellant

Vs .

1. The Tirunelveli Municipal Council
Rep. by its Mayor,
Tirunelveli Municipal Corporation,
Tirunelveli.
2. The Commissioner,
Tirunelveli Municipal Corporation,
Tirunelveli.
3. The Assistant Commissioner,
Melapalayam Ward Office,
Tirunelveli.
4. The Deputy Mayor,
Tirunelveli Municipal Corporation,
Tirunelveli.

.. Respondents

PRAYER: Writ Appeals filed under Clause 15 of Letters Patent against the order dated 22.09.2014 in W.P. (MD)No.15385 of 2014.

Prayer in WP(MD)No.15385 of 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus call for the records of the impugned order of the 2nd respondent dated 10.9.14 in his proceedings in Na.Ka.No.A1/-415-2012 and quash the same and consequently direct the 1st respondent to grant lease for collection of fee in the Cattle Market Situated in Nethaji Road, Melapalayam in the light of Resolution No.228 dated 29.7.13 in favour of the petitioner.

For Appellant	:	Mr.J.Bharathan
For Respondents	:	Mr.Aayiram K.Selvakumar
		Standing Counsel

J U D G M E N T

[Judgment of the Court was delivered by PUSHPA SATHYANARAYANA, J.]

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The petitioner is the appellant laying challenge to the order of the writ Court dated 22.09.2014 in W.P. (MD)No.15385 of 2014,

wherein, he impugned the order of the second respondent dated 10.09.2014 and prayed for a consequential relief.

2. Originally, by order of the respondents dated 11.05.2009, the writ petitioner/appellant was granted licence to collect fee in the daily vegetable and cattle market in Melapalayam within the limits of the respondents Corporation for one year. Relying upon G.O.Ms.No.78, dated 25.05.2009, wherein, the benefits of G.O.Ms.No.181, Municipal Administration and Water Supply Department, dated 19.09.2008, directing all the local bodies to conduct tender-cum-auction for leasing out its premises for a period of three years, have been extended to the Municipal Corporations also, the writ petitioner/appellant sought to extend the licence for a period of three years. Since his request was not considered by the respondents and a fresh tender has been called for, he filed W.P. (MD)No.1883 of 2010 questioning the same, which was allowed by this Court. Though the appeal preferred by the respondents in W.A.No.330 of 2010 was allowed, the petitioner successfully challenged in the same in SLP (Civil) No.26620 of 2010.

3. In the meanwhile, on coming to know about the passing of a resolution dated 29.07.2013 converting the license into lease in respect of a slaughter house, the writ petitioner/appellant sought a similar relief in his representation dated 18.02.2004. Since there is no response at the hands of the respondents, the petitioner filed W.P.(MD)No.10349 of 2014. The said writ petition was disposed of with a direction to the respondents to consider his representation on merits, in the light of the resolution dated 29.07.2013, within a stipulated time frame and maintain status quo till such time. Subsequently, the respondents rejected the said representation vide order dated 14.08.2014, which was questioned by him in W.P.(MD) No.13632 of 2014. During the course of arguments in the said petition, the writ petitioner/appellant gave up his right to seek conversion of the licence in respect of the vegetable market and contested for the cattle shandy. Since the respondents failed to consider the representation in the light of the resolution dated 29.07.2013 in violation of the directions of this Court, the order dated 14.08.2014 was set aside the matter was remitted back to the respondents for a fresh consideration in terms of the directions of this Court.

4. In the meanwhile, the respondents revoked/cancelled the resolution dated 29.07.2013 and hence, again the representation of the writ petitioner/appellant was rejected by the order dated 10.09.2014, which was impugned before the writ court. The writ court negatived his prayer vide the impugned order. Hence, the present appeal.

5. Learned counsel for the writ petitioner/appellant contended that the writ court committed an error in wrongly applying Section 49 of the Coimbatore City Municipal Corporation Act, 1971, to hold that the Commissioner has power to suspend or cancel a resolution.



It is submitted that only the elected body has got the power to cancel or ratify the resolution or the Government and therefore, the second respondent cannot reject the request of the writ petitioner/appellant. Hence, the order of the respondents has no legs to stand calling for interference by this Court.

6. Heard the learned Standing Counsel for the respondents Corporation on the above submissions.

7. The writ court, after a careful consideration of all the materials, held that the licensee has no vested right to claim conversion of his licence into a lease and the writ petitioner/the appellant herein having accepted the terms of licence and followed the same for a substantial period was estopped from making any such claim. Furthermore, it was held that the resolution dated 29.07.2013 relied on by the writ petitioner/appellant was suspended/cancelled by the Commissioner, who has got powers to do so, of-course subject to the further scrutiny or ratification by the Government, and as such, the writ petitioner/appellant cannot place reliance on the said resolution to seek indulgence from this Court.

8. Though the writ petitioner/appellant has relied upon the license granted to a licensee in respect of a slaughter house, taking into consideration the factual aspects and other safety concerns including the letters of the Government of Tamil Nadu, the writ Court upheld the action of the respondents holding that the claim of the writ petitioner/appellant is misconceived one and thus, the said action of the does not call for any interference. It is also represented that pursuant to the order of the writ Court dated 22.09.2014, the respondents Corporation took possession of the cattle shandy and it is being maintained by the Corporation.

9. In view of the above discussion, we are of the considered opinion that the writ Court passed a reasoned order and this writ appeal has no merit, which, accordingly, stands dismissed. No costs. Consequently, M.P.(MD)Nos.1 and 2 of 2014 are closed.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar (CS-II)

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TE/RSK/SAR-2 : 27/11/2018 : 3P/3C

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W.A. (MD)No.1257 of 2014
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