



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WP (MD) No.24207 of 2017

and

W.M.P. (MD) .20316 of 2017

and

W.M.P. (MD) .No.258 of 2018

K.Manisekar

... Petitioner

Vs.

The Corporation of Madurai,
Represented by its
Commissioner,
Arignar Anna Maligai,
Madurai.

... Respondent

Petition filed under Article 226 Constitution of India to issue a Writ of Certiorari, calling for the entire records in connection with the impugned proceedings of the respondent in MaVa3/000624/2017 dated 23.12.2017 and quash the same.

For Petitioner : Mr.M.Ajmalkhan Senior Counsel
for M/s.K.K.Senthil

For Respondent : Mr.K.Govindarajan
Standing Counsel for Corporation

ORDER

This writ petition has been filed challenging the impugned proceedings of the respondent dated 23.12.2017 in MaVa3/000624/2017.

2.According to the petitioner, the petitioner is a licensee to collect fees in the Public Toilet at Arappalayam Bus Stand and the license period is valid till 30.03.2018. Based on an inspection said to have conducted by the Commissioner, Madurai Corporation, without conducting any enquiry, whatsoever straight away a notice has been issued to cancel the petitioner's license. Hence, the petitioner has filed the present writ petition challenging the above order.

3.The learned Senior Counsel appearing for the petitioner would contend that the license period valid is upto 30.03.2018 and only based on an inspection, in the absence of the petitioner, the respondent cancelled the petitioner's license, without issuing any show cause notice and without conducting any enquiry.

4.Per contra, Mr.K.Govindarajan, learned Standing counsel appearing for the respondent Corporation, submitted that the license is valid till 30.03.2018 and when the Commissioner, Madurai Corporation made a surprise inspection, he



found that the petitioner was collecting fees more than the amount prescribed by the Corporation and he has not at all maintained the Toilet properly. Apart from that, he is also selling Tobacco products in the Toilet. In the said circumstances, the respondent Corporation has rightly cancelled the license.

5. Admittedly, before passing the order, no notice has been issued to the petitioner and no enquiry was conducted. It is a settled law, any order rising with civil consequences, even if the statute is not providing for giving any opportunity in order to satisfy the principles of natural justice, the authority should give an opportunity to the affected person to submit his objections and an enquiry needs to be conducted. But, in the instant case, without giving any notice, the impugned order has been passed and on that score alone, the impugned order dated 23.12.2017 passed by the respondent is liable to be set aside, accordingly it is set aside.

6. It is now submitted by the respondent that the Corporation will issue notice to the petitioner calling for objections and if any such notice is issued by the Corporation, it is always open to the petitioner to submit his objections, and on receipt of such objections, the Commissioner shall conduct an enquiry and pass appropriate orders on merits and in accordance with law.

7. The writ petition is allowed with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To
The Commissioner,
Corporation of Madurai,
Arignar Anna Maligai,
Madurai.

+1cc to Mr.K.K.Senthil, Advocate Sr.No.46776
+1cc to Mr.K.Govindarajan, Advocate Sr.No.46614
NS
VB/SKN/RSK/SAR3/13.03.2018/2P/4C

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