

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 27.09.2018****CORAM:****THE HONOURABLE MR.JUSTICE V.PARTHIBAN****W.P. (MD) No.19656 of 2018****WEB COPY**

P.Anbalagan
S/o.Periyasamy Thevar
Proprietor Thaaai Entertainment
346, Tiruvalluvar Nagar
Thirunagar
Thanakkankulam (Post)
Madurai-625006

... Petitioner

vs.

Madurai City Municipal Corporation
rep by its Commissioner
Aringar Anna Maligai, Out Post
Thallakulam, Madurai

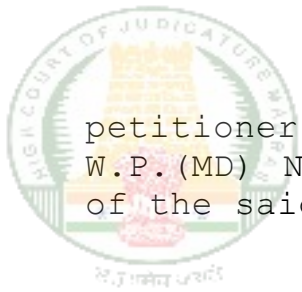
... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the respondent to issue proceedings upon the petitioner directing him to produce No objection certificate from the Fire Service, Police, Collectorate and Chief Health Officer of the respondent and other required departments so to enable the petitioner to qualify himself for the allotment of the Thamukkam grounds in the lot to be conducted by the respondent pursuant to the earlier of this Court.

For Petitioner : Mr.K.K.Senthil
For Respondent : Mr.R.Murali

O R D E R

The petitioner runs an amusement enterprise in the name and style of "Thai Entertainment" in Madurai City and he has been conducting various entertainment exhibitions in and around Madurai. According to the petitioner, he has employed more than 25 folk artists in respect of his business. In order to conduct an exhibition in Thamukkam Ground owned by the respondent - Corporation, an application was made for conduct of exhibition in the said Ground and the same was registered as 23156 on 24.06.2016 by the respondent. A further request was made for leasing out a portion of Thamukkam Ground on rent for 34 days commencing from 16.12.2017 to 20.01.2018, vide their letter dated 08.06.2017 by enclosing a demand draft for a sum of Rs.25,000/- and requested the respondent to allot the Ground to him. The respondent - Corporation, vide their communication dated 19.06.2017, rejected the request of the petitioner. In these circumstances, the



petitioner had approached this Court by filing a writ petition in W.P.(MD) No.15621 of 2017 and on 06.02.2018, this Court disposed of the said writ petition by ordering as follows:

"3. Mr.R.Murali, learned counsel, appearing for Madurai Corporation, submitted that now the corporation is decided to amend the relevant rules and also decided to issue new guidelines for granting license in respect of Thamukkam ground, however, if more than one person has applied for license for the same period and if they are qualified, the corporation will conduct lot.

4. Considering the fact that if more than one qualified person seeking license, the corporation cannot choose the person on their own whims and fancies, and in the event of more than one eligible applicant applied for the same period, the respondent corporation is directed to conduct by drawing lot and select the person for granting license based on the lot only.

5. With the aforesaid directions, this Writ Petition is disposed of. There shall be no order as to costs."

In pursuance of the above directions passed by this Court, a request was made by the petitioner to the respondent - Corporation for implementing the above directions. However, once again, the respondent - Corporation had rejected the petitioner's application on the ground that appeal has been preferred against the order, dated 06.02.2018, passed by this Court in W.P.(MD) No.15621 of 2017.

2. According to the learned counsel appearing for the petitioner, the rejection of the petitioner's request is contrary to the undertaking given by the respondent - Corporation before this Court in the aforesaid writ proceedings. The order passed by the learned Single Judge of this Court in the aforesaid writ petition, as found in Paragraph Nos.2 to 5, is extracted hereunder:

"2. Even though the period for which the petitioner sought for license has been expired, the learned counsel for the petitioner would content that when there are more than one applicant for the same period, the respondent corporation arbitrarily choose person on their own whims and fancies some guidelines may be formed to grant license.



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3. Mr.R.Murali, learned counsel, appearing for Madurai Corporation, submitted that now the corporation is decided to amend the relevant rules and also decided to issue new guidelines for granting license in respect of Thamukkam ground, however, if more than one person has applied for license for the same period and if they are qualified, the corporation will conduct lot.

4. Considering the fact that if more than one qualified person seeking license, the corporation cannot choose the person on their own whims and fancies, and in the event of more than one eligible applicant applied for the same period, the respondent corporation is directed to conduct by drawing lot and select the person for granting license based on the lot only.

5. With the aforesaid directions, this Writ Petition is disposed of. There shall be no order as to costs."

3. While so, the petitioner has requested the respondent - Corporation vide letter, dated 09.08.2018, to issue relevant proceedings to him in order to procure no objection certificate from various Departments in order to qualify for allotment of the Ground as sought by him. The respondent having received the request, so far has not issued any proceedings directing the petitioner to produce no objection certificate. In the said circumstances, the petitioner is before this Court seeking issuance of a writ of mandamus.

4. The learned counsel appearing for the petitioner would submit that unless the respondent - Corporation issued proceedings calling upon the petitioner to produce no objection certificate from various Departments, like, Fire Service, Police, Collectorate and Health Department, the petitioner would not be in a position to approach these Departments to get necessary certificates to enable him to qualify for being allotted the Ground for conducting exhibition.

5. At this juncture, the learned counsel appearing for the respondent - Corporation would submit that as against the order passed by the learned Single Judge, as cited supra, a writ appeal has been preferred and the same is pending. In view of the pendency of the writ appeal, the application submitted by the petitioner could not be processed. However, it is admitted that there is no interim order passed in the writ appeal.



6. The learned counsel appearing for the petitioner would, therefore, submit that direction may be issued to the respondent - Corporation to process the petitioner's application and issue necessary proceedings to the petitioner pending outcome in the writ appeal and the pendency of the writ appeal need not be cited as against the petitioner's claim to process his application.

7. Considering the submissions made by the learned counsel on either side, this Court is of the view that mere pendency of writ appeal cannot be a reason for not considering the application submitted by the petitioner. In these circumstances, this Court is of the considered view that in the fitness of things, direction shall be given to the respondent - Corporation to consider the petitioner's application, dated 09.08.2018 and issue necessary proceedings so as to enable him to obtain no objection certificate from various Departments, as indicated above, in order to qualify for being considered for allotment of Thamukkam Ground for conducting exhibition.

8. Therefore, there shall be a direction to the respondent - Corporation as prayed for in this writ petition and the respondent - Corporation is consequently directed to issue necessary proceedings within a period of two weeks from the date of receipt of a copy of this order.

9. The writ petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The Commissioner
Madurai City Municipal Corporation
Aringar Anna Maligai, Out Post
Thallakulam, Madurai.

+1cc to Mr.K.K.Senthil, Advocate Sr.No.87355
+1cc to Mr.R.Murali, Advocate Sr.No.87409

krk

VB/SKN/SAR1/10.10.2018/4P/4C