



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:25.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.12668, 12202, 12129 and 12130 of 2018

and

W.M.P.(MD).Nos.11549, 19450, 11100, 20201, 11049, 19456, 19449 and 11050 of 2019

- 1.K.Anbalagan ... Petitioner in W.P(MD).No.12668 of 2018
2.C.Siva ... Petitioner in W.P.(MD).No.12202 of 2018
3.M.Deepak Kumar ... Petitioner in W.P.(MD).No.12129 of 2018
4.M.Vinod ... Petitioner in W.P.(MD).No.12130 of 2018

Vs

The Commissioner,
Bodinayakkanur Municipality,
Bodinayakkanur.

... Respondents in all W.Ps.

PRAYER IN W.P.(MD)Nos.12668 of 2018: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari by calling for the records relating with the order of the respondent made in Na.Ka.No.4530/2017/A2, dated 27.04.2018 cancelling the petitioner's license to collect fee from the users of toilet and latrine situated in Ward No.27, Vellayappan Street in Bodinayakkanur and quash the same as it is arbitrary and illegal.

Prayer in WP(MD). 12202 of 2018 :

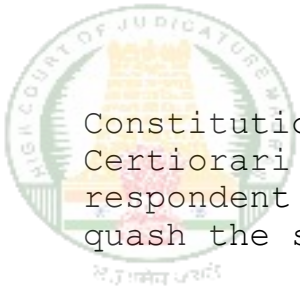
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records with the order of the respondent made in Na.Ka.No.4530 / 2017 / A2, dated 27/04/2018, cancelling petitioners license to collect fee from the users of toilet and latrine situated in Ward.No.2, North car street, Ward.No.7, East Veli Street and 23 in Marudhupandiar Street in Bodinayakkanur and quash the same as it arbitrary and illegal.

Prayer in WP(MD). 12129 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari calling for the records relating with the order of the respondent made in Na.Ka.No.4530/2017/A2, dt.27.04.2018, cancelling the petitioners license to collect fee from the users of toilet and latrine situated in Ward No.27, Subramaniam Kovil North Street, in Bodinayakkanur and quash the same as it is arbitrary and illegal.

Prayer in WP(MD). 12130/ 2018 :

Writ Petition is filed under Article 226 of the



Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records relating with the order of the respondent made in Na.Ka.No.4530 / 2017 / A2, dated 27/04/2018 and quash the same as it is arbitrary and illegal.

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For Petitioners

: Mr.R.Suriya Narayanan

For respondents

: Mr.M.Karuppasamy
Government Advocate

(In all W.Ps.)

COMMON ORDER

Heard the learned counsel on either side.

2.The petitioners were the highest bidder in the public auction conducted by the respondent Municipality on 22.02.2018 for collecting the user fee from the sanitary complex located in Ward No.27, Vellayappan Street, Bodinayakkanur.

3.The petitioners paid a sum of Rs.17,340/- towards license fee and income tax. The respondent issued proceedings dated 22.03.2018 granting the petitioners' license to run the said toilets and latrines. But the same was cancelled, vide order dated 27.04.2018. The order of cancellation is questioned in these writ petitions.

4.When the matter was taken up for hearing, this Court granted interim order in favour of the writ petitioners. As on date, the petitioners are very much running the toilets covered by the license dated 22.03.2018. The order impugned in these writ petitions will have to be quashed for more than one reason.

5.As rightly urged by the learned counsel for the petitioners, the cancellation was not proceeded by any notice. But when a proceeding is set aside on the ground of violation of principle of natural justice, this Court will have to remit the matter to the file of the respondents to pass order afresh in accordance with law.

6.But in this case, I do not propose to remit the matter to the file of the respondents. This is because the only reason given in the impugned order is that the earlier licensee created a law and order problem and that is why, the cancellation order was issued. I am surprised over the course of action adopted by the respondent Municipality. If the persons who lost in the public auction created trouble, they must be dealt with as per law. The solution is not to cancel the licensee of the highest bidder. The respondents are obliged to enforce the rule of law and not succumb to the public pressure.

7.These writ petitions stand allowed. If necessary, the respondent Municipality is at liberty to avail the assistance of the



jurisdictional police in this regard. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

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// True Copy //

Sub Assistant Registrar (CS)

TO

The Commissioner,
Bodinayakkanur Municipality,
Bodinayakkanur.

+1cc to Mr.R.SURIYA NARAYANAN, Advocate, SR.No. 56385

W.P. (MD) Nos. 12668, 12202, 12129 and 12130 of 2018
25.03.2019

KK/SAR/15.04.2019/ 3P- 3C

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