

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.1892 of 2020

and

WMP. Nos.2216, 2217 & 2218 of 2020

S.Suresh

.. Petitioner

Vs.

1 The Commissioner
Hindu Religious and Charitable Endowments
Department Nungambakkam Chennai.

2 The Assistant Commissioner
Executive Officer (Arlmighu
Vanabathrakalliamman Thirukovil)
Mettupalayam Coimbatore.

3 Shri Harshini
Assistant Commissioner Executive officer
Arlmighu Vanabathrakalliamman Thirukovil
Mettupalayam Coimbatore.

4 The Inspector of Police
Mettupalayam police Station Coimbatore.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus to call for the records of the proceedings of the 2nd respondent made in Na.Ka.No. 598 / 2019 / A2 dated 22.01.2020 and quash the same consequently direct the 2nd respondent permit him to collect the toll collection until the expiry of the tender period.

For Petitioner : Mr.N.Umapathi

For Respondents : Mr.M.Karthikeyan, Spl.G.P. - R1
Mr.R.Bharanidharan - R2 & R3
Mrs.P.Rajalakshmi, AGP - R4

O R D E R

Pursuant to order dated 17.08.2020, a memo dated 18.08.2020 has been filed by Mr.R.Bharanidharan, learned counsel for R3 confirming the amount to be refunded to the petitioner. The said memo reads as follows:

<https://hcservices.ecourts.gov.in/hcservices/>

"MEMO FILED ON BEHALF OF THE 3RD RESPONDENT

1.The petitioner was awarded with contract for right to collect the parking fee at Arulmighu Vanabadrakalliamman Thirukoil for the fasli year from 1.7.2019 to 30.6.2020. The petitioner has become the

2.The Hon'ble Court by order dated 28.1.2020, directed the Commissioner, HR&CE or his nominee to conduct an enquiry in to the allegations at Coimbatore and the Joint Commissioner, HR&CE, Madurai, was nominated as the enquiry officer, who recorded the statement and documents furnished by the respective parties and after forwarding the same the Commissioner, HR&CE, had passed orders on 25.2.2020 cancelling the contract in granted favour of the petitioner and further ordered to impose a fine of Rs.25,000/- upon the petitioner and to refund the amount for the remaining period from the date of cancellation of the contract.

3.In view of the interim orders of this Hon'ble Court, the petitioner was continuing to collect the parking fee until 18.3.2020, when the Government of Tamil Nadu directed closure of all the temples under the control of HR&CE Department in view of spread of pandemic disease. Though the order of the Commissioner has specifically mentioned about imposing a fine of Rs.25,000/- to be recovered and credited in to the account of the temple, considering the ongoing pandemic and the loss suffered by the petitioner and taking a humane approach it is prayed that suitable orders may be passed to refund the amount for the remaining 103 days where the petitioner has not been able to collect the parking fee which works out to Rs.3,17,613/- as calculated by the petitioner and confirmed by the 3rd respondent and further this Hon'ble Court issuing appropriate directions about the waiving the fine amount. It is also humbly submitted that any refund could be made only after passing a resolution by the Trustee and obtaining necessary approval from the Commissioner, HR&CE, as it would be subject to the audit by the HR&CE Department, and therefore it is prayed that this Hon'ble Court may be pleased to pass appropriate orders taking in to consideration of all the above facts.

In the above circumstances, it is humbly prayed that this Hon'ble Court may be pleased to record the above memo in W.P.No.1892 of 2020, pending on the file of this Hon'ble Court, and pass such further or other orders as this Hon'ble Court deem fit and proper and thus render justice."

2. Recording the aforesaid memo and in line with the fair averments contained therein, the following order is passed:

(i) The amount of Rs.3,17,613/- shall be refunded to the petitioner within a period of twelve (12) weeks from date of uploading of this order after carrying out necessary formalities as stated in the memo.

(ii) In line with the tenor of the memo, the fine of Rs.25,000/-, imposed upon the petitioner is waived.

(iii) Since the refund is to be granted pursuant to the order of this Court, the question of audit of the same

3. This writ petition is disposed in the aforesaid terms. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1 The Commissioner
Hindu Religious and Charitable Endowments
Department Nungambakkam Chennai.
- 2 The Assistant Commissioner
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Mettupalayam Coimbatore.
- 3 Shri Harshini
Assistant Commissioner Executive officer
Arlmighu Vanabathrakalliamman Thirukovil
Mettupalayam Coimbatore.
- 4 The Inspector of Police
Mettupalayam police Station Coimbatore.

+1cc to Mr.N.Umapathy, Advocate in Sr no.27190.
+1cc to Government Pleader in Sr no.27267.

सत्यमेव जयते

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