



W.P(MD)Nos.7740 of 2020, etc.,

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED : 22.03.2021

DATED : 27.04.2022

CORAM

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P.Nos.7740, 12740, 15928 and 17809 of 2020, 235,
1583, 4023, 4158 and 4233 of 2021
and
miscellaneous petitions

W.P.No. 7746 of 2020

R.Karuppannan

... petitioner

Vs

- 1.The State of Tamil Nadu,
represented by its Secretary,
Municipal Administration
and Water Supply Department,
Fort.St.George,
Chennai.
- 2.The District Collector,
Salem District,
Salem.
- 3.The Commissioner,
Salem Municipal Corporation,
Salem - 636 001.
- 4.The Assistant Commissioner,
Ammamet Zone,
Salem Corporation, Salem -636 003.



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5.The Secretary,
Municipal Administration,
Fort St.George, Chennai -9.

6.The Secretary,
Agricultural Department,
Fort St.George,
Chennai -9.

7.The Commissioner of Police,
Salem City,
Salem.

... respondents

[R5 to R7 suo-motu impleaded
vide order dated 22.02.2021]

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, for a writ of mandamus directing the respondents to forthwith allot a temporary shop to the petitioner at Salem Subash Chandra Bose Ground, near old bus stand, Salem and consequently, direct the respondents to allot a permanent shop at VOC market after completion of the new building by the Salem Corporation under the Salem City Scheme.



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For Petitioners : Mr.K.Selvaraj
For Respondent : Mr.Kumaresh Babu,
Nos.3 & 4 AAG, assisted
by Mr.S.Sathish, St.C.
For Respondent : Mr.M.Elumalai,
Nos.5 to 7 AGP
:Mr.N.Suresh
Amicus Curie

COMMON ORDER

All these writ petitions are filed in respect of Flower, Vegetable and Meat Market run by Salem Municipal Corporation [in short 'the Corporation']. Therefore, these writ petitions are heard together and disposed of by way of this common order.

2.The Corporation to facilitate the general public to meet their needs and to enable the farmers and vendors for vending vegetables, flowers, fruits, meat, etc., maintains a market viz., V.O.C Market [in short VOC market] in Chinna Kadai Veethi, Salem.

3.The farmers and vendors entering into VOC market, Salem are supposed to pay following toll fee.



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2. (அ) வ.உ.சி. நாளிப்பாடியும் கதைச் சேர்ந்த
இறைவரீக்கலை, கருவாட்டுக்கலை, நூக்கலைகளும்
(ஆ) ஆனந்திர இறக்கம் முதல் ஆற்றோறும் பெரிய பாவம் வரை பாதையரை
கடைகள்

இதற்கு இரண்டாம் பாகம் முதல் ஐந்தாம் பாகம் வரை சிபிஎன்ஐ இடம் பெற்றுள்ளது. இப்பாகங்களான ஆறாம் பகுதி இதழில் உள்ளது.

சிறப்புக் கட்டுப்பாடுகள்

[illegible]

தீனாசர் வுதலிக்க வேண்டிய கட்டண வீபரம்

பிரிவு - A

அ. சிவசாந்தி முனையடி காவிரி மாவட்டமோட்டா நீர்நிலை கனம் தனி : முதல் 18 வரை

கனம் மாநில சட்டப் பேரவைத் தலைவர் அவர்களே	ரூ. 10.00
கனம் மாநில சட்டப் பேரவைத் தலைவர் அவர்களே	ரூ. 10.00
கனம் மாநில சட்டப் பேரவைத் தலைவர் அவர்களே	ரூ. 15.00
கனம் மாநில சட்டப் பேரவைத் தலைவர் அவர்களே	ரூ. 23.00
கனம் மாநில சட்டப் பேரவைத் தலைவர் அவர்களே	ரூ. 15.00
கனம் மாநில சட்டப் பேரவைத் தலைவர் அவர்களே	ரூ. 15.00
கனம் மாநில சட்டப் பேரவைத் தலைவர் அவர்களே	ரூ. 20.00
கனம் மாநில சட்டப் பேரவைத் தலைவர் அவர்களே	ரூ. 15.00
கனம் மாநில சட்டப் பேரவைத் தலைவர் அவர்களே	ரூ. 20.00

உ. அ. அருண்முகம், முன்னாள் மாண்புமிகு அமைச்சர், 1 முதல் 13 வரை

செயல்பாடு: பித்தர் உணவு உட்கொள்ளும் போது	(ரூ. 20.00)
அல்லாதவர்கள்: அல்லாதவர்களுக்கு இலவசம்	(ரூ. 60.00)
செயல்பாடு: பித்தர் உணவு உட்கொள்ளும் போது	(ரூ. 30.00)
அல்லாதவர்கள்: அல்லாதவர்களுக்கு இலவசம்	
மேலும்: பித்தர் உணவு உட்கொள்ளும் போது	
அல்லாதவர்கள்: அல்லாதவர்களுக்கு இலவசம்	
மேலும்: பித்தர் உணவு உட்கொள்ளும் போது	
அல்லாதவர்கள்: அல்லாதவர்களுக்கு இலவசம்	

இ. பிரதீபன் அய்யங்கர், உடையார் கல்வித் துறை, மதுரை.

மாட. மா. 1 முதல் 6 வரை மாட. 1-க்கு தர. 1-க்கு	ரூ. 10.00
மாட. மா. 7, 8 வரை 1-க்கு தர. 1-க்கு	ரூ. 12.00
மாட. மா. 9 முதல் 15 வரை மாட. 1-க்கு தர. 1-க்கு	ரூ. 10.00
மாட. மா. 17 முதல் 24 வரை மாட. 1-க்கு தர. 1-க்கு	ரூ. 10.00
மாட. மா. 25 முதல் 31 வரை மாட. 1-க்கு தர. 1-க்கு	ரூ. 10.00
மாட. மா. 32 முதல் 37 வரை மாட. 1-க்கு, 38-1-க்கு	ரூ. 12.00



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ம. இலக்கம் 1755555 செரிந்த கையெழுத்துச் சான்று காகிதம், எண். 1 முதல் 28 வரை	
காகித எண். 12,67,516,23,21 காகித 1-க்கு தரப் 1-க்கு	ரூ. 20.00
காகித எண். 3,45,17,12,19 காகித 1-க்கு தரப் 1-க்கு	ரூ. 15.00
காகித எண். 8 முதல் 14 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 15.00
காகித எண். 22 முதல் 28 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 15.00

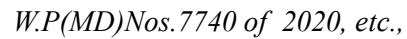
உ. புதிது கிரேம் டி. காகிதங்கள்	
1 முதல் 14 காகிதங்கள் (புதிதில் காகித 1-க்கு தரப் 1-க்கு	ரூ. 10.00
15 முதல் 28 காகிதங்கள் (புதிதில் காகித 1-க்கு தரப் 1-க்கு	ரூ. 10.00

உ. புதுவகை 1 முதல் 28 வரை	
காகித எண். 1 முதல் 4 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 15.00
காகித எண். 5 முதல் 22 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 15.00
காகித எண். 23 முதல் 28 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 15.00
புதுவகை 1-க்கு தரப் 1-க்கு 2 அடி காகிதம் 2 அடி காகிதம் குறைவாக	ரூ. 5.00
4 அடி தரப் 4 அடி குறைவாகவரை 2 அடி காகிதம் குறைவாக	ரூ. 15.00

அ. இலக்கம் 1755555 செரிந்த கையெழுத்துச் சான்று காகிதம்	
1. இலக்கம் 1755555 செரிந்த கையெழுத்துச் சான்று காகித 1-க்கு தரப் 1-க்கு	ரூ. 15.00
2. கிரேம் காகிதம் காகித எண். 1 முதல் 2 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 15.00
3. கிரேம் காகிதம், 4 முதல் 4 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 10.00
4. கிரேம் காகிதம், 5 முதல் 5 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 15.00
5. கிரேம் காகிதம், 6 முதல் 6 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 15.00
6. கிரேம் காகிதம், 7 முதல் 7 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 15.00
7. கிரேம் காகிதம், 8 முதல் 8 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 15.00

பி. இலக்கம் 1755555 செரிந்த கையெழுத்துச் சான்று காகிதம்	
1. இலக்கம் 1755555 செரிந்த கையெழுத்துச் சான்று காகித 1-க்கு தரப் 1-க்கு	ரூ. 15.00
2. கிரேம் காகிதம், 1 முதல் 1 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 10.00
3. கிரேம் காகிதம், 2 முதல் 2 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 10.00
4. கிரேம் காகிதம், 3 முதல் 3 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 10.00
5. கிரேம் காகிதம், 4 முதல் 4 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 10.00

சி. இலக்கம் 1755555 செரிந்த கையெழுத்துச் சான்று காகிதம்	
1. கிரேம் காகிதம், 1 முதல் 1 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 10.00
2. கிரேம் காகிதம், 2 முதல் 2 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 10.00
3. கிரேம் காகிதம், 3 முதல் 3 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 10.00
4. கிரேம் காகிதம், 4 முதல் 4 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 10.00
5. கிரேம் காகிதம், 5 முதல் 5 வரை காகித 1-க்கு தரப் 1-க்கு	ரூ. 10.00



பிரச்சினை - D

1. தனது கட்டுரை மூலம் 4.00 மணிக்குள் தனது கட்டுரைக்குரிய அட்டை மாதிரி தயார் செய்து கொண்டு அதைப் குறுக்குவெட்டு மூலம், பீரிக் நெய்வுடனாக கூட்டுவது தவிர்ப்பதற்குக் கவனமாகக் கொள்ள.
2. தனது கட்டுரை மூலம் தயார் செய்து குறுக்குவெட்டு மூலம் மாதிரி செய்து அதைப் குறுக்குவெட்டு மூலம்.
3. குறுக்குவெட்டு மூலம் தயார் செய்து அதைப் குறுக்குவெட்டு மூலம்.
4. குறுக்குவெட்டு மூலம் தயார் செய்து அதைப் குறுக்குவெட்டு மூலம்.
5. குறுக்குவெட்டு மூலம் தயார் செய்து அதைப் குறுக்குவெட்டு மூலம்.
6. குறுக்குவெட்டு மூலம் தயார் செய்து அதைப் குறுக்குவெட்டு மூலம்.
7. குறுக்குவெட்டு மூலம் தயார் செய்து அதைப் குறுக்குவெட்டு மூலம்.
8. குறுக்குவெட்டு மூலம் தயார் செய்து அதைப் குறுக்குவெட்டு மூலம்.
9. குறுக்குவெட்டு மூலம் தயார் செய்து அதைப் குறுக்குவெட்டு மூலம்.
10. குறுக்குவெட்டு மூலம் தயார் செய்து அதைப் குறுக்குவெட்டு மூலம்.



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4.The Corporation floated tender in Na.Ka.No.L8/8888/2018, dated 07.07.2020, for granting licence for collection of the above toll fee in VOC market for the year 2020-2021. As per the tender conditions, the lease would be for a period of one year and subsequently it would be extended for a period of three years with an enhanced lease amount of 5% for the second and third years as per the Government order in G.O(Ms)78, Municipal Administration and Water Supply Department dated 25.05.2009.

5.One Murugan, writ petitioner in W.P.No.15928 of 2020, participated in the said tender and as he quoted the highest bid amount, i.e., Rs.12,00,991/- per week, he was granted licence to collect toll fee for the year 2020-2021. Murugan will herein after be referred to as 'licensee'.



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6.The Salem City is selected under the Smart Cities Mission Scheme. The Corporation has decided to construct a new market with 240 shops at a cost of Rs.14.58 crore under the Smart Cities Mission Scheme, by demolishing the existing building in VOC market. As an interim arrangement, the Corporation established makeshift shops on the Subash Chandra Bose ground [in short 'SCB market'], near old bus stand, Salem and provided space to the VOC market vendors and farmers, in the makeshift shops on SCB ground.

7.Writ petition in W.P.No.7746 of 2020 was filed by one Karuppannan as against the Corporation that he was selling flowers in VOC market for several years, but he was not provided any space in SCB market. Alleging that the shops were allotted for extraneous consideration, the petitioner sought a mandamus directing the Corporation to allot him a makeshift shop in SCB market and to allot him a permanent shop in VOC market.

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8.Karuppannan has also filed another petition in W.P.No.12740 of 2020 for a mandamus, directing the Corporation to remove 141 excess shops, which were allotted to strangers in SCB market by considering his representation dated 25.08.2020. It is also stated in the writ petition that in the VOC market there were only 185 shops [128 vegetable shops and 57 flower shops], but in the SCB market, 326 makeshift shops were established by adding 141 new shops, which were allotted to strangers by getting rupees seven lakh from each of them by some of the Corporation officials, through the toll collecting agency.

9.Writ petition in W.P.No.15928 of 2020 is filed by licensee Murugan as against the final notice in Na.Ka.No.L8/2640/2020, dated 24.10.2020 issued by the Corporation, wherein the Assistant Commissioner of the Corporation citing several irregularities of the licensee in collecting the toll fee and allotting the shops, called upon his explanation in respect of the complaints and reports on the dailies and medias.



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10. Writ petition in W.P.No.17809 of 2020 is filed by one R.M.Raju and 140 others claiming to be flower vendors in VOC market, seeking for a mandamus directing the Corporation to reimburse the excess toll amount collected by licensee and for a direction to the licensee to collect the toll fee as per the guidelines issued in the year 2016-2017. It is stated in the writ petition that the licensee is supposed to collect Rs.20/- for a big shop and Rs.15 for a small shop, but the licensee is collecting Rs.100/- for each shop through goondas on threat and coercion. Similarly, the licensee is supposed to collect Rs.10/- per basket as entry fee, but he is collecting Rs.100/- to Rs.150/- according to his whims and fancies. Therefore, on behalf of VOC Market Vendors Welfare Association a representation was submitted to the Commissioner of Corporation on 12.09.2020, but no action was taken. Therefore, this writ petition is filed with the above prayer.



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11.Writ petition in W.P.No.235 of 2020 is filed by one Prabakaran and 7 others for a mandamus to direct the Corporation to reimburse the excess toll amount collected by licensee and for a direction to the licensee to collect the fixed toll. It is stated that the licensee is collecting exorbitant toll forcibly than the fixed one.

12.Writ petition in W.P.No.1583 of 2021 is filed by the licensee Murugan as against the order of Corporation in Na.Ka.No.L8/8888/2018, dated 05.01.2020, in and by which, the licence granted to him was cancelled by the Corporation. This writ petition is filed that the impugned order of cancellation was passed based on certain vague allegations without assigning any reasons and also without considering the pendency of the writ petition in W.P.No.15928 of 2020, filed by him as against the final show cause notice, wherein this Court, while entertaining the said writ petition has granted an interim direction to the Corporation, not to pass any

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final orders till the disposal of the writ petition.

However, the impugned order came to be passed, during the pendency of the earlier writ petition. The Corporation has cancelled the licence in an arbitrary manner and such an act is contemptuous one.

13.Writ petition in W.P.No.4023 of 2021 is filed by one Parvathi for a mandamus directing the Corporation to allot temporary shop to her in SCB market and also to allot permanent shop in VOC market, once new VOC market is constructed. The grievance of the petitioner is that the Corporation Commissioner has allotted a shop to the petitioner after receiving a sum of Rs.50,000/- through third respondent. The licensee is demanding rupees ten lakh for each shop claiming that he has spent rupees twenty crore for obtaining licence. Since the petitioner was denied entry into the market, she is vending flowers in basket, outside the premises, where licensee is collecting Rs.300/- or Rs.500/- per day.

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14.Writ petition in W.P.No.4158 of 2021 is filed by one S.Nizaruddin and 20 others seeking direction to allow the petitioners to run their shops in the allotted shops in VOC market, by preventing the unauthorised persons, who are occupying the petitioners' shops. It is stated in the writ petition that the petitioners are allottees of shops in VOC daily market. However, some strangers under the guise of Flower Merchant Sangam, have occupied the said shops and preventing the petitioners from doing their business.

15.Writ petition in W.P.No.4233 of 2021 is filed by one K.Selvakumar and sixteen others seeking a mandamus for a direction to allow the petitioners to run their shops in the allotted shops in VOC market, by preventing the unauthorised persons occupying the petitioners' shops. It is stated in the writ petition that the petitioners are allottees of shops in VOC daily market. However, some strangers under the guise of Flower Merchant Sangam, have

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occupied the said shops and preventing the petitioners from doing their business.

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16. Some of the above writ petitions are filed by the farmers and vendors that they have been vending flowers and vegetables, etc., for several years in the VOC market, but unfortunately, they have not been allotted or provided space in the temporary SCB market. The licensee and the Corporation officials are demanding huge money to allot them shops in the SCB market. It is also contended that in fact, in the VOC market there were only 185 shops [128 vegetable shops and 57 flower shops], but in the SCB market, 326 shops were established by including 141 new shops, which were allotted to strangers by getting rupees seven lakh from each of them by some of the Corporation officials, through the toll collecting agency.

17. Some writ petitions are filed that though the petitioners were allottees of shops in the VOC

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Market, they are not allowed inside the market to do their business.

18.The writ petitions in W.P.Nos.15938 and 1583 of 2021 are filed by the licensee Murugan as against the final show cause notice issued by the Corporation and the order cancelling the licence respectively.

19.The Corporation on receipt of several complaints as against the licensee that he has been collecting exorbitant toll from the farmers and vendors, issued show cause notices and cancelled the licence.

20.The learned Senior Counsel appearing for the licensee submits that the Corporation proceeded against the licensee based on vague allegations. Though the Corporation in the final notice dated 24.10.2020, has referred to several earlier notices, the same were not served on the licensee. Though the

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Corporation alleges that there are 88 complaints received against the licensee, the complaints 1 to 72 relate to different period and not during this licensee's period, the complaints 77 and 78 are without any allegation as against the licensee and one of the complaints referred to is even without any signature.

21.The learned Senior Counsel further submits only in order to expel the licensee, the show cause notice and the cancellation order were issued. This entire process took place within a short span of one month. The impugned order of cancellation does not reflect the reply submitted by the licensee to the show cause notice. As per clause 44 of the Tender Conditions, if any violation is found, the Corporation shall impose only a sum of Rs.250/- as penalty.

22.The learned Senior Counsel also pointed out that earlier a writ petition in W.P.No.15928 of 16/53



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2020 was filed by the licensee as against the show cause notice dated 24.10.2020 issued by the Corporation and this Court on 06.11.2020 has also directed the Corporation not to pass any final orders, pending the writ petition. However, without considering such a direction, the subsequent cancellation order was passed by the Corporation. Moreover, the licensee has engaged several employees and invested huge amount for collection of toll fee, but the Corporation without providing sufficient opportunity and without any valid reason cancelled the licence, based on *mala fide* and also in an unilateral manner, which will have a serious consequences. Therefore, the impugned order is liable to be set aside.

23.The learned Senior Counsel has also relied on the following decisions:

i) ***Kranti Associates Pvt. Ltd. and Ors. Vs. Masood Ahmed Khan and Ors,*** reported in



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(2010) 9 SCC 496, wherein the Hon'ble Supreme Court has held as follows:

"46. *Even then in the case of R. v. Civil Service Appeal Board, ex parte Cunningham reported in (1991) 4 All ER 310, Lord Donaldson, Master of Rolls, opined very strongly in favour of disclosing of reasons in a case where the Court is acting in its discretion. The learned Master of Rolls said: ...It is a corollary of the discretion conferred upon the board that it is their duty to set out their reasoning in sufficient form to show the principles on which they have proceeded. Adopting Lord Lane CJ's observations (in R v. Immigration Appeal Tribunal, ex p Khan (Mahmud) [1983] 2 All ER 420 at 423, (1983) QB 790 at 794-795), the reasons for the lower amount is not obvious. Mr. Cunningham is entitled to know, either expressly or inferentially stated, what it was to which the board were addressing their mind in arriving at their conclusion. It must be obvious to the board that Mr. Cunningham is left*



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with a burning sense of grievance. They should be sensitive to the fact that he is left with a real feeling of injustice, that having been found to have been unfairly dismissed, he has been deprived of his just desserts (as he sees them).

47. The learned Master of Rolls further clarified by saying:

...thus, in the particular circumstances of this case, and without wishing to establish any precedent whatsoever, I am prepared to spell out an obligation on this board to give succinct reasons, if only to put the mind of Mr. Cunningham at rest. I would therefore allow this application."

ii) Krishna Mohan Medical College and Hospital and Ors.Vs. Union of India (UOI) and Ors, reported in (2017) 15 SCC 719, wherein the Hon'ble Supreme Court has held as follows:

20. In the predominant factual setting, noted hereinabove, the approach of



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the Respondents is markedly incompatible with the essence and import of the proviso to Section 10A(4) mandating against disapproval by the Central Government of any scheme for establishment of a college except after giving the person or the college concerned a reasonable opportunity of being heard. Reasonable opportunity of hearing which is synonymous to 'fair hearing', it is not longer res integra, is an important ingredient of audi alteram partem Rule and embraces almost every facet of fair procedure. The Rule of 'fair hearing' requires that the affected party should be given an opportunity to meet the case against him effectively and the right to fair hearing takes within its fold a just decision supplemented by reasons and rationale. Reasonable opportunity of hearing or right to 'fair hearing' casts a steadfast and sacrosanct obligation on the adjudicator to ensure fairness in procedure and action, so much so that any remiss or dereliction in connection therewith would be at the pain of invalidation of the decision eventually



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taken. Every executive authority empowered to take an administrative action having the potential of visiting any person with civil consequences must take care to ensure that justice is not only done but also manifestly appears to have been done."

24.The learned Counsel appearing for the farmers and vendors referred to the tender/ bid amount, in VOC market in the past, which reads as follows:

Sl.No	Period	Licence amount per week in Rs
1	2013-2014	1,45,000/-
2	2014-2015	With 5% enhancement
3	2015-2016	With 5% enhancement
4	2016-2017	3,03,386/-
5	2017-2018	With 5% enhancement
6	2018-2019	With 5% enhancement
7	2020-2021	12,00,991/-

25.The learned Counsel by referring to the



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above table, submits that there is a steep increase in the current year bid amount when compared to last year's bid amount. Such a huge bid amount was offered by the licensee only in order to make a whooping profit out of the licence by illegal allotment of shops in the proposed new VOC market and by collecting excess toll fee. The licensee taking advantage of the shifting of VOC market to SCB ground, inducted 240 vendors by collecting rupees ten lakh from each vendor. He is also collecting exorbitant amount as entry fee and rent from the vendors and farmers and preventing the persons, who have objected to his illegalities, from doing their business by not allotting any shops to them.

26.The learned Counsel for the Corporation submits that during the month of July 2020, the Corporation floated tender for collection of toll charges in the VOC Flower, Vegetable and Fish markets. One Murugan, writ petitioner in W.P.Nos.15928 of 2020 and 1583 of 2021 has been declared as successful bidder and the licence was

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granted to him on 15.08.2020 for collection of toll charges, commencing from 16.08.2020 to 15.08.2021.

As per the guidelines, the daily rent in the market for a small shop is fixed as Rs.10/- and for a big shop is fixed as Rs.20, instead of collecting Rs.10/- and Rs.20/- he has collected Rs.100/- and Rs.200/- or Rs.300/- from vendors. Several complaints were received by the Corporation from the vendors and farmers and there were also news reports in the dailies and medias. Therefore, the Corporation has issued notice to the petitioner on 24.08.2010, 01.10.2020, 03.10.2020, 05.10.2020, 09.10.2020, 13.10.2020, 17.10.2020, 20.10.2020 and finally on 24.10.2020. The final notice dated 24.10.2010 was challenged by the licensee in W.P.No.15928 of 2020 before this Court. However, the licensee submitted his reply on 30.10.2020 and in that reply he has not denied the allegations levelled against him, admitted the same and also stated that has has corrected/rectified the violations pointed out.



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27.The learned Counsel further submits that although the licensee alleges that the earlier notices were not served on him, in his reply dated 30.10.2020 he has referred to the earlier notices. Since the reply of the licensee was not satisfactory, the licence was cancelled by order dated 05.11.2020. While so, this Court in W.P.No.15928 of 2020 on 06.11.2020 on the submission of the licensee that he had not submitted any reply to the notice dated 24.10.2020, directed the Corporation not to pass any final orders till the disposal of the writ petition. The reply offered by the licensee on 30.10.2020 was suppressed before this Court and this Court granted time to the licensee to submit his explanation. Even before issuance of such a direction by this Court on 06.11.2020, the licence of the petitioner was cancelled on 05.11.2020 itself and therefore, there is no violation of orders of this Court as alleged by the licensee.



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28.The learned Counsel further submits that the licensee has collected nearly ten fold increased toll fee than the fixed one and harassed the farmers and vendors. Therefore, he is not only acting against the farmers and vendors, but also as against the public interest and also against the terms and conditions of the licence. The Corporation has also issued several show cause notices and the licensee replied only on 30.10.2020 and even in that reply he has not denied the allegations rather, admitted the same and claimed to have rectified the same. This reply itself is an admission to the guilt by the licensee and therefore, the licensee has obviously violated the tender conditions and the collection of excess toll fee is an extreme violation and therefore, the corporation has passed an order, dated 05.11.2020 by cancelling the licence.

29.The learned Counsel for the Corporation has also relied on decision of the Hon'ble Supreme



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Court in **State of UP vs Sudhir Kumar Singh and Others**, reported in **2020 SCC 847**, wherein it was held as follows:

"39.An analysis of the aforesaid judgments thus reveals:

i. Natural justice is flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of audi alteram partem rule cannot by itself without more, lead to the conclusion that prejudice is hereby caused.

ii. Where procedural and / or substantive provisions of law embody the principle of natural justice, their infraction per se does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.

iii. No prejudice is caused to the person complaining of the breach of natural justice where such a person does not dispute the case against him or it. This can happen by reason of estoppel, acquiescence, waiver



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and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.

iv. In cases where facts can be stated to be admitted or indisputable and only one conclusion is possible, the Court does not pass futile orders of setting aside or remand when there is, in fact, no prejudice is caused. This conclusion must be drawn by the Court on an appraisal of the facts of a case, and not by the authority who denies natural justice to a person.

v. The prejudice exception must be more than mere apprehension or even a reasonable suspicion of a litigant. It should exist as a matter of fact, or be based upon a definite inference of likelihood of prejudice flowing from the on observance of natural justice."

30. This Court paid its anxious consideration to the rival submissions and perused the materials placed on record.



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31. Market is a place meant for selling and buying goods by farmers and the general public. It would be apposite to refer to Sections 6 and 7 and 17 of the Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987, which read as follows:

"6. Establishment of Market:

(1) Every market committee shall establish in the notified area such number of markets providing facilities, as the Government may, from time to time, direct for the purchase and sale of the notified agricultural produce

(2) The Government shall, as soon as may be, after the establishment of a market committee under sub-section (1), declare, by notification, the area of the market and such area around the market as may be specified in the notification to be a notified market area for the purposes of this Act in respect of any notified agricultural produce

7. Establishment of special and subsidiary markets.- (1) Notwithstanding anything contained in section



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6, where the Government are satisfied that on account of the specialized nature of marketing of any agricultural produce, like fresh fruits, fresh vegetables, or wool, in any area, it is expedient to ensure the efficient regulation of the marketing of such agricultural produce in such area the Government may establish,- (a) in such area special market for such agricultural produce, and (b) independent market committee in relation to such special market notwithstanding that such area falls within the local limits of the jurisdiction of any other market committee or committees already functioning in the area. and every such special market and independent market committee shall be established and constituted in the same manner in which a market and a market committee is established and constituted under this Act. (2) Where a special market and independent market committee are



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established under sub-section (1), the Government may, by notification, declare that the provisions of this Act shall with such modification, restrictions or limitations as may be specified in the notification, apply in relation to such special market and independent market committee. (3) The market committee any, with the previous approval in writing of the Government establish, within the notified market area, such number of subsidiary markets as may be necessary providing such facilities as the Government may, from time to time direct, for the purchase sale of the notified agricultural produce. (4) (a) The Government may, by notification, declare their intention to direct the independent market committee, or as the case may be, the market committee concerned to close such special market or subsidiary market as may be specified in the notification. The notification shall state that any objection or suggestion



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which may be received by the Government, within such period as may be specified in the notification, shall be considered by it. A copy of the notification shall also be published in such other manner as may be prescribed.

17. Market committee to be a local authority.— *Every market committee shall be deemed to be a local authority for the purpose of the Land Acquisition Act, 1894 (Central Act I of 1894) and the Local authorities Loans Act, 1914 (Central Act IX of 1914"*

32.The above provisions, mandate that every local body has to establish a market, for essential commodities, for the benefit of consumers, farmers and vendors.

33.The Salem Municipal Corporation is also maintaining a market, namely, VOC daily market at Chinnakadai veethi, Salem. Salem city has also been selected under the Smart Cities Mission Scheme.



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Under this scheme the Corporation has decided to construct a new building with 240 shops by demolishing the existing VOC market building. As an interim arrangement, the VOC market was shifted to SCB ground.

34.The Corporation has fixed the toll fee as referred to in paragraph No.3 of this order.

35.The Corporation has leased out the right of collecting the toll charges in VOC Market, to private party. The licensee Murugan writ petitioner in W.P.Nos.15928 of 2021 and 1583 of 2021 participated in the tender floated by the Corporation for the year 2020-2021 by affording bid amount of Rs.12,00,991/- per week. The licensee is permitted to collect a sum of Rs.10/- for small shops and Rs.20/- for big shops. The licence was granted on 15.08.2020 and the period of licence is 16.08.2020 to 15.08.2021.



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36.While so, the Corporation received several complaints as against the licensee in collecting the toll fee that he is collecting Rs.100/- and Rs.200/-, instead of collecting Rs.10 and Rs.20/- and also received complaints that when the VOC market was shifted to SCB ground temporarily, the licensee has inducted 240 new vendors by collecting a sum of rupees ten lakh each from those new vendors. Some of the vendors have also approached this Court that licensee has not permitted them inside the market. Therefore, the Corporation issued several show cause notices calling for the explanation of the licensee. The licensee has also offered his explanation to the said show cause notice. Being not satisfactory with the explanation, the licence was cancelled by the Corporation.

37.The object of establishing market is to provide space for farmers and vendors to sell vegetables, flowers, meat etc., and also to fulfil the needs of the general public. The collection of

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toll fee from the market has to be regulated in the interest of public at large. This object is defeated when it is leased out to private parties. The Corporation which is not in a position to collect the toll fee, cannot be expected to monitor the lessee effectively, whether they are collecting the toll charges in accordance with the terms and conditions of the licence. The space is almost allotted by the political bigwigs and money lenders are collecting exorbitant interest. Most of the vendors are even now depending on the money lenders and are paying exorbitant interest to these money lenders. Though Money Laundering Act was enacted in the year 2002, it appears that the menace of money laundering is not fully eradicated. The poor farmers and vendors may not be in a position to fight against the mighty money lenders.

38.The data in respect of the bid amount available in this case itself would reflect the real interest behind this licence. The VOC market was

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leased out for collection of toll fee and the license
amount for the past three times, is as follows:

Sl.No	Period	Licence amount per week in Rs
1	2013-2014	1,45,000/-
2	2014-2015	With 5% enhancement
3	2015-2016	With 5% enhancement
4	2016-2017	3,03,386/-
5	2017-2018	With 5% enhancement
6	2018-2019	With 5% enhancement
7	2020-2021	12,00,991/-

39.It is to be noted that for the year 2020-2021 the licensee has afforded to pay a sum of Rs.12,00,991/- per week, which is nearly 400% more than the previous three years' licence amount.

40.It is seen from records that this Court by order dated 25.01.2021 directed the Corporation to collect the toll in the market through Corporation staff and to file a report.



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41. Accordingly, the Corporation collected toll charges through its staff from 25.01.2021 to 23.02.2021 and collected Rs.13,54,326/- during the period. Even the Corporation could only collect Rs.13,54,326/- for a month, whereas the licensee Murugan was able to collect the said amount in a week and afforded to pay a sum of Rs.12,00,991/- per week to the Corporation, which is obviously, excluding the expenses he and profit.

42. The above collection of toll fee by the Corporation and by the licensee would itself expose the real truth and the real interest behind the licence. Either these lessees may collect exorbitant toll charges as alleged by some writ petitioners or may get benefit of money lending with exorbitant interest to the farmers and vendors entering the market.

43. For getting more assistance in this matter, this Court appointed one Mr.N.Suresh Kumar, Advocate as Amicus Curie.



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44.The petitioners in W.P.Nos.15928, 17809, of 2020 and 235 of 2021 insisted the learned Amicus Curie to visit the the Market in Salem for having an idea for arriving at a solution. Accordingly, the learned Amicus Curies has also visited the market on 13.02.2021 in the presence of the writ petitioners and other officials and submitted a detailed report, dated 22.02.2021 that two types of collections are followed. One from the vendors and other is from the farmers. The vendors are charged Rs.60/- per shop and the farmers are charged Rs.30/- per gunny bag, weighing 50 Kgs. On enquiry, the vendors and farmers, uniformly alleged that prior to the orders of this Court dated 21.10.2020, the licensee was collecting Rs.100/- per shop and Rs.5/- per Kg for a day for the flower basket. Some of the farmers have also reported that Rs.8/- was collected for a garland. The learned Amicus has also collected different types of receipts issued by the licensee. The receipts were issued for Rs.100/- and Rs.200/- etc., After the Corporation

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started collecting, in pursuance of the orders of this Court, only Rs.60/- and Rs.30/- were collected from vendors and farmers respectively.

45.The learned Amicus further reports that three types of complaints were preferred to the Commissioner of the Corporation that the Association for the Welfare of the Flower Market Vendors are not allowing farmers inside the Flower Market. Another part of dispute is that the persons claiming to be farmers are not real farmers and they are only commission agents. The third part is that the licensee is collecting over and above the charge fixed by the Corporation and the Corporation officials allotted shops around 70 to 80 persons to their whims and fancies.

46.The learned Amicus has made certain recommendations in his report. The relevant portions are extracted hereunder :



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"17.The market place in Salem especially the flower vending activity is meant only for the farmers to vend their products to the common public in the place daily allotted to them and thereby make them to eke out their livelihood. On the other hand as I find the farmers have to only deliver their products at the entrance of the market and the persons who are claiming to be vendors occupy the spaces and thereby vend the products. There is no system actually in place to only allow the farmers to carry on their vending activity to sell away their products. The whole complexity of the issue will only go to show the entire market place has been excessively commercialised not by the farmers but by others and thereby each of the group competing to win over the other. I only suggest that unless clear statutory guidelines are in place, the entire market place will continue to be highly commercialised and the common public will be exorbitantly charged in comparison to the actual price the farmers will receive at the end of the day.



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18.I also find because of the space constraint also each of the group take advantage of the situation and fleece exorbitantly in several lakhs for allotment of the space. All the above clearly go to show that the actual farmers have no place to vend in the market. The interest of the farmers should be kept in mind as supreme by statutory authorities. But actually the officials are groping in darkness and is not able to do and deliver the goods to the farmers. All it is because of absence of clear and effectively statutory guidelines which will ultimately benefit the farmers. Because of the huge profit each group is claiming to make, I wish to suggest the following measures can be adopted by the Statutory authorities which will ultimately be in the interest of the farmers.

A) The Corporation of Salem will have to make necessary and adequate space for the vending activity. At present it is stated to be that there are only 174 stalls with different measures commencing from 4 X 4 ft. Because of the inadequate shopping



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spaces encroachments come out even in the road side area.

B. There should be clear statutory guidelines that the shops/ stalls are fully utilized by the actual farmers and not by commission agents.

C.The vending activity can be regulated in such a manner that the market place area is not infested by the persons, who wanted to compete each other in allotting the spaces by collecting huge amount.

D. There should be uniform guidelines for the purpose of collection of toll and the same cannot be go beyond the actual fee fixed by the Corporation and in this regard suitable mechanism can be in place for preventing excessive collection.

E.The Corporation should also make effective guidelines to prevent money profiteering activity by others in the market area.

F.The collection of tolls can be digitised so that the actual amount is collected and ultimately the Corporation will also realise to the actual collection



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and the Common public will also resultantly benefitted.

G. There should be transparency in the allotment of shops so that the daily vendor will not be at the mercy of lobbying their own group of people for allotment of space."

47. In this case Corporation has received several complaints from the vendors that the licensee has collected exorbitant charges from the farmers and vendors and also illegally allotted shops to strangers. On receipt of such complaints, the Corporation has issued several notices to the licensee calling upon his explanation. Accordingly, the licensee has offered his explanation, however, he not denied the allegations made thereon and moreover, he claimed that he has rectified / corrected the defects pointed out. The Corporation being dissatisfied over the explanation, cancelled his licence. Though the licensee has filed a writ petition, against the final show cause notice dated



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24.10.2020 that the earlier notices were not served upon him and alleges that despite the orders of this Court not to pass any final orders, the Corporation cancelled the licence, according to the learned Counsel for the Corporation, the licensee submitted a reply on 30.10.2010, but this fact has not been placed by the licensee on 06.11.2021, when this Court directed the Corporation not to pass final orders, pending the writ petition. Therefore, the grounds raised by the licensee are not acceptable. The licensee has also not denied the allegations and claims that he has rectified the same. This itself would amount the admission of guilt. It is to be noted that collection of excess toll charges is violative of clause 37 of the terms and conditions of the licence and the licence is liable to be cancelled in view of the said clause. Since the licensee misused the licence by collecting exorbitant toll amount, the respondent Corporation has rightly cancelled the licence. This Court does not find any reason to interfere with the order cancelling the



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licence granted to the licensee. Therefore, the writ petition in W.P.No.1583 of 2021, filed against the order of cancellation of licence is liable to be dismissed.

48.Though the earlier writ petition in W.P.No.15928 of 2020 is filed by the licensee as against the final show cause dated 24.10.2010, subsequently on 05.11.2020, the license itself was cancelled by the Corporation which is evident from the discussion above and the subsequent cancellation order is also challenged in W.P.No.1583 of 2021, which is held liable to be dismissed. In view of the subsequent developments, this Court is of the view that no further order is required to be passed in this writ petition.

49.In the light of the above discussion, the writ petitions in W.P.Nos.15928 and 1583 of 2021 filed by the licensee are dismissed.

50.The other writ petitions are filed by the petitioners claiming to be vendors and they are not



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permitted by the licensee in the SCB market.

The licensee disputed the same that they are not the real vendors at VOC market. However, there are allegations that the licensee inducted 240 new vendors by obtaining rupees ten lakh from each vendor and illegally allotted shops in SCB market to them, by creating false records with the help of the corporation officials.

51.In this connection, the Commissioner of Corporation, Salem shall constitute a committee of experts/ officials, so as to ensure that the farmers and vendors alone get the shops allotted in the market and ensure that they are not exploited by middleman or by money lenders. The petitioners in W.P.Nos.7740, 12740 and 17809 of 2020, 235, 4023, 4158 and 4233 of 2021 shall approach the said Committee to be constituted by the Commissioner of Corporation, Salem and the Committee shall take a decision as expeditiously as possible in respect of their grievances.

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52. Accordingly, the writ petitions in W.P.Nos.7740, 12740 and 17809 of 2020, 235, 4023, 4158 and 4233 of 2021 are disposed of on the above terms. No costs. Consequently, connected miscellaneous petitions stand closed.

53. Before conclusion, this Court is inclined proceed further as follows;

54. The farmers are the backbone of this nation. India is basically an agricultural country. The great Tamil Scholar, Tiruvalluvar in his couplet No.1033 has emphasised the importance of agriculture, even before 2000 years, as follows:

“உழுதுண்டு வாழ்வாரே வாழ்வார்மற் றெல்லாம்
தொழுதுண்டு பின்செல் பவர்.

Translated version

They alone live who live by



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agriculture; all others lead a
cringing, dependant life".

55.Agriculture is source of livelihood;
contributes to national income; source of food
supply; plays vital role in industrial development;
has commercial importance; source of government
revenue; plays major role in economic planning;

56.We have witnessed several reports that the
farmers are not having adequate facilities to store
their hard grown produce and they never got an
opportunity of fixing the price to their own produce.
The farmers are getting a meagre profit of their
produce, whereas traders and middlemen are getting
the major chunk, who are not playing any role in
cultivation at all.

57.Considering the very importance of the
agriculture, for the welfare of the agriculturists,

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Both Central and State Governments are taking several efforts by introducing and implementing several beneficial schemes, as follows:

1.National Mission For Sustainable Agriculture (NMSA); 2.Pradhan Mantri Fasal Bima Yojana (PMFBY); 3.Pradhan Mantri Krishi Sinchai Yojana (PMKSY); 4.Paramparagat Krishi Vikas Yojana (PKVY); 5. Micro Irrigation Fund scheme; 6. Mission Organic Value Chain Development for North Eastern Region (MOVCDNER); 7. E-NAM; 8. Kisan Credit Card (KCC); 9. Soil Health Card; 10. PM Kisan Samman Nidhi Yojana; 11.PM Kisan Urja Suraksha Evam Utthaan Mahabhiyaan

58.The Government is spending several crore of rupees for implementation of the above schemes every year. In the field of agriculture, marketing determines the value of the agricultural product in terms of money and delivers them to the final customer. Most of the farmers sell their produce

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through village level markets, fairs, Mandies, Co-operative Societies etc.,. In the above process of agricultural marketing, the middlemen exploit farmers as well as consumers. Generally, the middlemen and wholesale businessmen purchase the agricultural products from the farmers at a lower price. They also get the commission from the farmers for the transactions made. In turn, fresh vegetables and fruits purchased at the lower price from the farmers are sold out to retail businessmen at higher price and the retail businessmen sell those agricultural products further at higher price to the consumers. As a result, the farmers get only the lower price for their produce, whereas the consumers have to pay higher price for the same produce and the farmers are not getting and even if they get any profit, it is not enough for them to continue the cultivation and because they are not having adequate money, they are dependant on money lenders for exorbitant interest.

59. In order to eliminate the middlemen between farmers and consumers, to provide space to



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the farmers to sell their goods and in order to derive more benefits to the farmers as well as consumers, the Government of Tamilnadu introduced a new welcoming concept, namely **"UZHAVAR SANTHAI-FARMERS MARKET"** in the year 1999. Some of the objects of the scheme are as follows:

- To facilitate direct contact between the farmers and public.
- To provide fresh vegetables and fruits at reasonable price daily without any interference of middlemen.
- To give full satisfaction to the farmers and public.

60.However, it is very sad to mention that in due course, the spaces provided under this scheme were also occupied by the traders under the guise of farmers. Of course, the success of any scheme lies with the officials, who are implementing it.

61.The income / revenue received by the local bodies from the markets is very meagre. However, for the benefit of few licensees, the markets are leased out, as if it is augmenting the revenue of the local



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bodies. The number of agriculturists and the area of cultivation are decreasing day by day in this country. Therefore, at least in order to sustain the same without getting worse from today's scenario, and also taking into account this case as an eye opener, the Secretary, Municipal Administration, Fort St.George, Chennai, shall revisit the policy of leasing out the markets to private parties and find out the possibilities of allotting shops at free of cost to farmers and vendors; or at least find out the possibilities of collecting the toll fee at a reasonable or minimum cost by the officials of the Local Bodies itself, in order to prevent the private parties harassing the farmers and vendors from collecting exorbitant charges under the blanket of licensee or lease holder;

Index : Yes/No
Internet : Yes/No

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To

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- 1.The Secretary,
Municipal Administration
and Water Supply Department,
Fort.St.George,
Chennai.
- 2.The District Collector,
Salem District,
Salem.
- 3.The Commissioner,
Salem Municipal Corporation,
Salem - 636 001.
- 4.The Assistant Commissioner,
Ammapet Zone,
Salem Corporation, Salem -636 003.
- 5.The Secretary,
Municipal Administration,
Fort St.George, Chennai -9.
- 6.The Secretary,
Agricultural Department,
Fort St.George,
Chennai -9.
- 7.The Commissioner of Police,
Salem City,
Salem.



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W.P(MD)Nos.7740 of 2020, etc.,

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W.P.Nos.7740, 12740, 15928
and 17809 of 2020,
235, 1583, 4023,
4158 and 4233 of 202

27.04.2022