

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.No. 11127 of 2020
and W.M.P.Nos. 13570 & 13571 of 2020

Jayavardhanan ... Petitioner
.Vs.

1. Deputy Commissioner (Excise),
Department of Revenue and Disaster Management,
Government of Puducherry,
Collectorate, Revenue Complex,
Vazhudavoor Road, Puducherry - 09.
 2. Secretary to Government (Revenue),
Department of Revenue and Disaster Management,
Government of Puducherry,
Collectorate, Revenue Complex,
Vazhudavoor Road, Puducherry - 09.
- ... Respondents

Petition under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records in Notification No.1821/DCE/TP/AUC/2020-21 dated 25.07.2020 issued by the first respondent, quash the same and consequently directing the first respondent to dispose of the right of retail vend of toddy and arrack for the lease year 2020-21 in respect of the shops located in the region of Puducherry and Karaikal.

For Petitioner .. Mr.M.Nirmalkumar
For Respondents .. Ms.N.Mala,
Government Pleader (Puducherry)

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ORDER
(Order of the Court was made by M.M.SUNDRESH, J.)

This writ petition has been filed by the petitioner challenging the Notification issued on the ground of procedural violation on two counts viz., existing licensees have been given time on the previous day contrary to the Rules and the fresh auction has been conducted without affording sufficient time.

2.Learned counsel appearing for the petitioner submitted that in view of the aforesaid action of the respondents, there is a revenue loss. The power ought to have been exercised by the existing licensee within a period of one month before the date of expiry was not done. Under Rule 3 of The Puducherry Excise Rules, 1970, certificates will have to be obtained from different authorities. This would not have been possible during the pandemic situation. Thus, in view of the above said violation, the Notification will have to be set aside.

3.Learned Government Pleader (Puducherry) appearing for the respondents submitted that there is no procedural violation involved. Under Rule 156A of the The Puducherry Excise Rules, 1970, the existing licensee is permitted to seek for extension even the previous day which is accordingly followed. The petitioner without challenging the aforesaid Rule has come forward to file this writ petition. There is no mandate with respect to the number of days for the proposed auction. It was done in view of the starting point of the next excise year. Any decision to delay would incur loss of revenue to the respondents. The successful bidders have not been impleaded nor those who got their licences extended by way of renewal. Hence the writ petition will have to be dismissed.

4.On the question of procedural violation, we do not find any such violation as alleged by the petitioner. Rule 156A has been invoked by the petitioner in view of the contingency in existence, namely, the earlier licences were extended for a period of one month in view of the pandemic situation. Secondly, the next excise year has started. Therefore, there was an urgency in concluding the proceedings either towards extending the licences granted already or the re-auction. Now, both the exercises have been done. Further more, neither those licensees whose licences have been extended which is questioned by the petitioner nor the persons in whose favour the auction has been confirmed and thus got their rights accrued are before us.

5.In such view of the matter, we do not find any merit in this case and the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

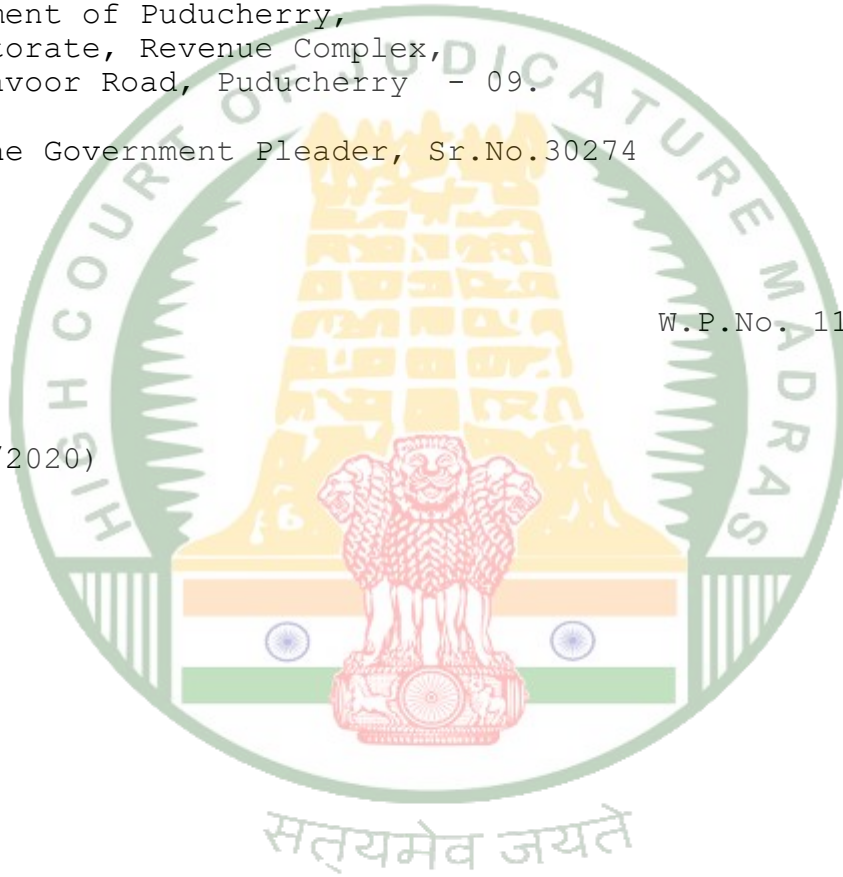
To

1. The Deputy Commissioner (Excise),
Department of Revenue and Disaster Management,
Government of Puducherry,
Collectorate, Revenue Complex,
Vazhudavoor Road, Puducherry - 09.
2. The Secretary to Government (Revenue),
Department of Revenue and Disaster Management,
Government of Puducherry,
Collectorate, Revenue Complex,
Vazhudavoor Road, Puducherry - 09.

+1cc to the Government Pleader, Sr.No.30274

W.P.No. 11127 of 2020

rji (co)
rr (29/09/2020)



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