

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2020

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P No.14977 of 2020

and

WMP.No.18630 of 2020

V.Palanisamy,
S/o.Venkatakrishnan.

... Petitioner

Vs.

The Commissioner,
Oulgaret Municipality,
Puducherry-5.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent pertaining to the short tender notice dated Nil bearing Ref.No.:No.226/Dip/AD(Press)/2020-21 issued by the respondent for grant of licenses for operating certain facilities within the Modern Hygienic Fish Market ECR, Puducherry as published in the "Dinamalar" newspaper on 02.10.2020 and quash the same in so far it relates to the grant of license for running the restaurant and consequently direct the respondent to permit the petitioner to run the restaurant for a period of 1 year by executing an appropriate lease deed and pass orders.

For Petitioner : Mr.L.Poovendra Perumal

For Respondent : Mr.Nambiselvan
Additional Government Pleader

ORDER

This writ petition has been filed challenging the short tender notice issued by the respondent calling for applications for grant of license for running the restaurant and for a consequential direction to the respondent running the restaurant for a period of one year by executing an appropriate lease deed in favour of the petitioner.

2.The case of the petitioner is that the respondent published a tender notice on 09.09.2016 calling for tender for grant of licence for a period of one year for running a restaurant. The petitioner participated in the tender and became the successful bidder. The petitioner further claims that he has paid the entire bid amount of Rs.5,04,000/- being the licence fee for running the restaurant for a period of one year. The further case of the petitioner is that the fish market was not opened to the general public and therefore the petitioner was not in a position to run the restaurant. The petitioner made representations to the respondent to open the fish market and to grant permission to the petitioner for a period of one year by extending the licence period. The grievance of the petitioner is that the respondent did not consider any of the representations and proceeded further to issue a fresh short tender notice on 02-10-2020. Left with no other option, the present writ petition has been filed before this court.

3.When the matter was taken up for hearing today, the learned Additional Government Pleader appearing on behalf of the respondent- Municipality submitted that there were no takers for the tender notice issued by the respondent and therefore the tender notice dated 02-10-2020 has been cancelled and steps are being taken to issue a fresh tender notice.

4.The learned counsel for the petitioner submitted that even though the impugned tender notification dated 02-10-2020 has been cancelled, the respondent is yet to respond to the representation made by the petitioner on 08-02-2019, wherein the petitioner has requested the respondent to permit the petitioner to run the restaurant for a period of one year by extending the licence period. The learned counsel submitted that the respondent can be directed to act upon the representation and permit the petitioner to run the restaurant for a period of one year.

5.In reply to the said submission, the learned Additional Government Pleader appearing on behalf of the respondent submitted that the petitioner has been asked to open the restaurant and run the same on so many occasions, but the petitioner did not open the restaurant and therefore the respondent had no other option except to issue a fresh tender notification. The learned counsel submitted that neither the petitioner is opening the restaurant and functioning nor the petitioner is allowing the respondent to call for a fresh tender notification.

6.This court has carefully considered the submissions made on either side and the materials available on record.

7.Insofar as the first limb of the relief claimed by the petitioner, the same has become infructuous in view of the fact that the tender notification dated 02-10-2020 has been cancelled and no further orders can be passed with regard to the challenge made to the tender notification.

8.Insofar as the consequential relief that is sought for by the petitioner, there shall be a direction to the respondent to consider the representation made by the petitioner on 08-02-2019 and take a decision and convey the same to the petitioner within a period of two weeks from the date of receipt of copy of this order.

9.The petitioner is directed to make a fresh representation to the respondent Municipality along with all the relevant documents and also a copy of this order.

10.This writ petition is disposed of accordingly, No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To:

The Commissioner,
Oulgaret Municipality,
Puducherry-5.

+1cc to Mr.G.Saravanan, Advocate Sr.37829

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br[co]
srg 19/01/2021