



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.08.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.8527 of 2020

&

WMP(MD).7905 of 2020

WEB COPY

S.Selvi

... Petitioner

Vs.

1.The Commissioner cum Special Officer,
Tuticorin Corporation,
Tuticorin,
Tuticorin District.

2.The Assistant Commissioner,
Tuticorin Corporation,
Tuticorin,
Tuticorin District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to change the lease which is subject matter of Tuticorin Corporation Council Resolution No.143, dated on 31.07.2019 into the name of Petitioner herein in the light of 2nd respondent's proceedings made in A16/0029/2019, dated 13.01.2020 within a stipulated period as may be fixed by this Court.

For Petitioner	: Mr.R.Sundar
For Respondents	: Mr.Shaji Bino Standing Counsel

O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned standing counsel appearing for the respondent.

2.The petitioner's husband namely., Simson was the successful bidder in the tender process conducted by the respondent/Corporation last year and was granted licence to collect fees from the users of the VOC market. The petitioner's husband had remitted a sum of Rs.42,35,354/-. Unfortunately, the petitioner's husband passed away shortly thereafter. However, the petitioner was allowed to collect the fees in the place of her husband. The licence period has now expired. The question that arises is whether the petitioner can be permitted to collect the fees for the second year also. It is not in dispute that the licence was for a block period of three years. For the second year, the licensee has to pay the license fee at an enhanced rate of 5%.



3.The petitioner's counsel would claim that during the lockdown for several weeks market was closed but the learned standing counsel would controvert the said assertion. According to him, the market was not at all closed.

4.Now the petitioner's request for substituting her in the place of her husband and granting licence for the second year has been negatived by the Commissioner of the respondent/Corporation principally on the ground that smart city project is to be implemented and that VOC market itself is to be closed.

5.The Commissioner has filed a counter in which, it has been stated that the proposal has already been sent to the Government vide proceedings dated 31.10.2019 and the administrative sanction and technical sanction is likely to be accorded shortly.

6.I am of the view that till the smart city project is implemented and the VOC market itself is closed, the petitioner can very well be permitted to continue. It is not as if the market has been closed or that user fees is not being collected. In fact, the corporation had appointed its own men and they are collecting fees from the market users. When the petitioner's husband had paid a huge sum of Rs.42,35,354/- and in normal course, upon fulfillment of other conditions his licence would have been extended for the second year also, I do not see as to why the petitioner should be denied the very same right. The petitioner's counsel states that the petitioner is ready to remit the licence fee for the second year as per the tender terms and conditions. The petitioner also gives a further undertaking that the moment the smart project is to be implemented and a direction is issued for closure of VOC market, the petitioner would abide by the same and not involve the corporation in any litigation. In other words, the decision of the respondent will be respected and of course, immediately after such implementation, the petitioner's proportionate fee must be refunded without any delay.

7.Recording the undertaking of the writ petitioner to strictly abide by the decision of the respondent/corporation, I direct the respondents to extend the licence for the second year i.e., 2020-2021 in the name of the petitioner subject to the aforesaid directions. The writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //



/ /2020
Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1.The Commissioner cum Special Officer,
Tuticorin Corporation,
Tuticorin,
Tuticorin District.

2.The Assistant Commissioner,
Tuticorin Corporation,
Tuticorin,
Tuticorin District.

+1 CC to M/s.S. SAJI BINO, Advocate (SR-15164[F] dated 27/08/2020)

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KB(27.08.2020) 3P 4C