



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 10.09.2020
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

W.P.(MD)No.11344 of 2020
and
W.M.P.(MD)No.9931 of 2020

R.Ranjith Kumar

... Petitioner

Vs.

1. The Commissioner,
HR & CE Department,
Nungampakkam,
Chennai.
2. The Joint Commissioner,
HR & CE Department,
H306, TNHB Colony,
Ellis Nagar, Madurai District.
3. The Assistant Commissioner,
HR & CE Department,
63, Officers Colony,
Alagar Koil Main Road,
Madurai District.
4. The Executive Officer,
Arulmigu Kallalagar Thirukoil,
Madurai.
(R4 is *suo motu* impleaded vide order
dated 10.09.2020)

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent and third respondent to cancel the tender notification in Na.Ka.No.400/2020/A4, dated 03.09.2020 on the file of the third respondent in respect of 9th item and subsequently, extend the tender period in his favour for one year from the date of relaxation of lock down.

For Petitioner	: Mr.K.Neethimohan
For R1 to R3	: Mr.K.P.Narayana Kumar Special Government Pleader
For R4	: Mr.K.R.Lakshman



O R D E R

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for R1 to R3 and the learned counsel appearing for the impleaded Executive Officer of the Temple.

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2.The petitioner was granted license to collect parking charges from the devotees visiting the fourth respondent temple. The petitioner's license period expired on 30.06.2020. Due to COVID-19 Pandemic, the temple was closed and the Chithirai festival was also not celebrated. The petitioner states that he had taken license only with the fond hope that he will be able to realize his profits in the Chithirai festival. In as much as, Chithirai festival could not be celebrated and the temple itself was closed, the petitioner had suffered total loss.

3.The petitioner was fondly hoping that his license period will be renewed. But then, the fourth respondent has issued a fresh tender notification. The petitioner challenges the same. I must point out that instead of filing a writ of certiorari, the petitioner had filed in the nature of writ of mandamus. As such, it may not be maintainable. However, I am not on a technical ground.

4.The learned counsel appearing for the impleaded Temple points out that license issued in favour of the petitioner contains Clause 37 which states that the temple management will not be responsible for any act of god and that, the loss will have to be borne only by the licensee/petitioner herein. But then, the Management can consider the extending petitioner's license by one more year, so that, he can offset the loss. But then, such a decision cannot be taken by the fourth respondent on her own. It is a policy decision that can be taken only by the first respondent or by the Government. Therefore, the petitioner has to necessarily appeal to the Government or the first respondent.

5.The tender notification issued by the fourth respondent as such cannot be interfered with. Leaving open the other rights of the petitioner, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

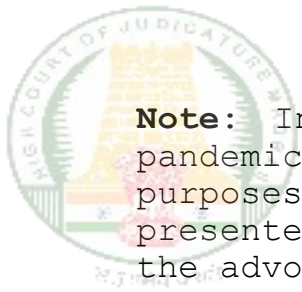
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/ /2020

Sub Assistant Registrar(CS)

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



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.

WEB COPY

To

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Chennai.
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Madurai District.
3. The Assistant Commissioner,
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Alagar Koil Main Road,
Madurai District.

+1 CC to the SPL GP (SR-16761[F] dated 14/09/2020)

W.P. (MD)No.11344 of 2020

VR(CO)
CS(07.10.2020) 3P 5C