



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD).No.14637 of 2020

and

W.M.P. (MD).No.13167 of 2020

M.Kanagaraja

.. Petitioner

Vs.

1.The District Collector,
Collectorate Building,
Koramballam,
Tuticorin,
Tuticorin District.

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

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, directing the respondents herein to handover the seized equipment and to pay compensation of Rs.4,50,000/- for damages and consequently directing the respondents to provide alternate place for running sports and games activities based on the petitioner's representation dated 05.10.2020, within a time stipulated by this Court.

For Petitioner : Miss.Benazir Begam

For Respondents : Mr.A.Karthick for R1
Government Advocate
Mr.Shaji Bino for R2
Standing Counsel

ORDER

(This writ petition is heard through Video Conference)

This writ petition has been filed for a Mandamus seeking for a direction to the respondents to hand over the seized equipments and to pay compensation of Rs.4,50,000/- for damages and consequently, direct the respondents to provide alternative place for running sports and games activities based on the petitioner's representation dated 05.10.2020.

2.Heard Miss.Benazir Begam, learned counsel for the petitioner, Mr.A.Karthick, learned Government Advocate, appearing for the first respondent and Mr.Shaji Bino, learned Standing Counsel, appearing for the second respondent.



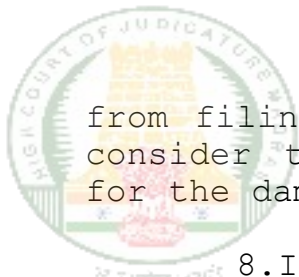
3.It is the case of the petitioner that he has been granted licence for running children and adult games at Muthu Nagar Beach, Tuticorin, for a period from 17.08.2018 to 16.08.2020. According to the petitioner, he has paid an amount of Rs.5,74,000/- to the second respondent for the first year and Rs.12,35,535/- for the second and third years towards licence fees. According to the petitioner, he has adhered to the terms and conditions of the license without any violation. It is the case of the petitioner that he has spent Rs.45 lakhs for fixing the sports and games equipments.

4.According to the petitioner, in the month of March 2020, due to Covid - 19 lock down, the second respondent Corporation suspended the games and sports activities temporarily. According to him, due to the said lock down, he had been put to irreparable loss and hardship. It is his case that more than 20 workers depend upon sports and games activities and they also suffered loss of income due to Covid - 19 lock down.

5.According to the petitioner, even before the expiry of the licence, the second respondent through their officials came to the premises of the petitioner on 23.09.2020 with JCB and damaged the games and sports equipments of the petitioner worth about Rs.4,50,000/-. In the affidavit filed in support of the writ petition, the petitioner has stated that he received a communication from the second respondent on 28.09.2020, calling upon the petitioner to vacate the premises within 15 days for the purpose of a Modern City Project. It is the case of the petitioner that the communication, dated 28.09.2020 issued by the second respondent after seizure of the petitioner's equipments on 23.09.2020 is against law and violates the principles of natural justice.

6.The petitioner has made a representation to the respondent on 05.10.2020 requesting them to hand over his equipments and has also sought for compensation of Rs.4,50,000/- for the damages caused by the officials of the second respondent on 23.09.2020. It is the case of the petitioner that till date the said representation has not been considered by the respondent. In such circumstances, this writ petition has been filed.

7.It is submitted by Mr.Shaji Bino, learned Standing counsel for the second respondent that the petitioner already challenged the order dated 28.09.2020 issued by the second respondent, calling upon him to vacate his premises within 15 days for the purpose of Modern City Project in W.P.(MD).No.16059 of 2020. He would submit that since the order directing the petitioner to vacate the premises has already been challenged, the present writ petition seeking for compensation is not maintainable. However, the learned counsel for the petitioner would submit that the challenge to the order dated 28.09.2020 passed by the second respondent calling upon the petitioner to vacate the premises will not preclude the petitioner

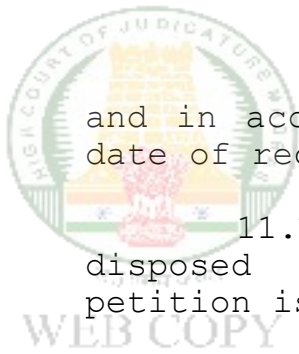


from filing this writ petition requesting the second respondent to consider the petitioner's representation seeking for compensation for the damage caused to the petitioner's equipments on 23.09.2020.

8.It is the case of the petitioner that he has been granted licence to run children and adult games at Muthu Nagar Beach, Tuticorin, under the licence granted by the second respondent for the period from 17.08.2018 to 16.08.2020. It is also his case that he has paid the licence charges in accordance with the contract. It is his case that even before the expiry of the licence, the second respondent through their officials damaged the sports equipments belonging to the petitioner kept at the licensed premises. It is also an admitted fact that by communication dated 28.09.2020, the second respondent has called upon the petitioner to vacate the premises, which is the subject matter of challenge in W.P.(MD). No.16059 of 2020. The present writ petition has been filed seeking for a direction to the second respondent to consider the petitioner's representation, seeking for compensation for the alleged damage caused to the petitioner's equipments by the second respondent's officials on 23.09.2020.

9.The relief granted by this Court in this writ petition will in no way affect the interest of the respondents in W.P.(MD). No.16059 of 2020, in which the petitioner has challenged the communication dated 28.09.2020 calling upon the petitioner to vacate the premises within a period of 15 days. In the present writ petition, the petitioner is seeking only compensation for the alleged damage caused to his sports equipments kept at the licensed premises by the officials of the second respondent on 23.09.2020. It is settled law that when there are disputed questions of fact involved and the petitioner seeks for recovery of money, a writ petition under Article 226 of the Constitution of India is not maintainable. However, no prejudice will be caused to the respondents if the petitioner's representation, seeking for compensation for the alleged damage caused to his sports equipments is considered by the respondents on merits and in accordance with law. The learned counsel for the petitioner also submits that the petitioner is satisfied if the second respondent considers the petitioner's representation dated 05.10.2020, seeking for compensation on merits and in accordance with law. She also submits on instructions that if the said representation is negatived, the petitioner will not once again approach this Court under Article 226 of the Constitution of India, but would only approach the civil Court.

10.For the foregoing reasons, this Court directs the second respondent to consider the petitioner's representation dated 05.10.2020, seeking for return of the seized equipments and also seeking for a compensation of Rs.4,50,000/- as damages for the alleged damage caused to the petitioner's sports equipments at the



and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order.

11. With the aforesaid direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ((P&A)

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Sub Assistant Registrar(CS)

TM

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 District Collector,
Collectorate Building,
Koramballam,
Tuticorin,
Tuticorin District.

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

+1 CC to SPL GP (SR-22182[F] dated 19/11/2020)

**W.P (MD) .No.14637 of 2020
18.11.2020**

VB (07.12.2020) 4P 4C