



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 17.08.2021

Pronouncing orders on : 19.08.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.1176 of 2021

and W.M.P.Nos.16202, 1324 & 1326 of 2021

Hotel Sowmiya Inn,
Rep. by Proprietor,
Thiru.C.S.Veeramani,
S/o.Thiru.Subramanian,
B2, 26/51, 4th Circular Road,
Jawahar Nagar, Coimbatore - 600 082.

... Petitioner

vs.

1. The Commissioner of Municipal Administration,
Urban Administrative Building,
MRC Nagar, Chennai - 600 028.

2. The Member Secretary of UBAS/
The Joint Commissioner of Municipal Administration,
Urban Administrative Building,
MRC Nagar, Chennai - 600 028.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records in Roc.No.15353/2019/OP3 dated 30.09.2020 on the file of the Commissioner of Municipal Administration and quash the same and direct the Respondents to consider the petition dated 15.10.2020 on par with the decision taken for waiver of rent up to 31.08.2020 in various places including the rental portions of CMDA Tower No.I, Chennai Metropolitan Development Authority, Thalamuthu Building, Egmore, Chennai - 600 008 based on G.O.(D).No.298 Municipal Administration and water Supply (MA.IV) Department dated 02.09.2020 and pass further or other orders as this Court may deem fit and proper in the circumstances of this case.

For Petitioner : Mr.D.Veerasekaran

For Respondents : Mr.A.Selvendiran
Government Advocate for R1
Mr.L.P.Maurya
Standing Counsel for R2



O R D E R

This writ petition has been filed challenging the impugned letter dated 30.09.2020 issued by the 1st respondent rejecting the request made by the petitioner for waiver of the rent for the period from 22nd March till the removal of the lock down and directing the petitioner to put up the kitchen immediately and settle the entire rent amount from March, 2020 to August, 2020.

2.A Tender Notification, dated 04.07.2019 was issued calling upon bids to set up a restaurant/canteen inside the Urban Administrative Building Society. The petitioner participated in the said Tender and submitted his bid. The petitioner was the successful bidder and he was informed through proceedings dated 24.10.2019 to occupy the floor area and establish a canteen as per the Tender conditions within thirty days from the date of agreement. The petitioner was also directed to execute the lease agreement within seven days by submitting the refundable security deposit of Rs.5 Lakhs.

3.The petitioner did not comply with the conditions imposed in proceedings dated 24.10.2019 and hence once again the 1st respondent through proceedings dated 24.12.2019 informed the petitioner to establish the canteen and execute the agreement and pay the refundable deposit within the stipulated time.

4.The petitioner through letter dated 29.12.2019 sought for some more time and the 1st respondent through proceedings dated 30.01.2020 did not accept the request made by the petitioner and proceeded to scrap the tender with immediate effect. Thereafter, the petitioner once again approached the 1st respondent and requested for reconsidering the decision and accordingly the decision was reconsidered and a lease agreement was entered into on 05.02.2020 for a period of three years and it was made clear in the lease agreement that the contract will be renewed for the 2nd year and the 3rd year based on the performance of the petitioner and if the performance is not satisfactory, the 1st respondent reserves the right to invite fresh bids.

5.It is stated that the petitioner did not establish the canteen and the food from outside was served to the employees working in the Urban Administrative Building and there were complaints made against the petitioner in this regard. That apart, the petitioner also failed to pay the monthly rent from March, 2020 onwards. The petitioner sought for the waiver of the rent and the 1st respondent through proceedings dated 30.09.2020 rejected the request made by the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court.



learned counsel appearing on behalf of the respondents.

7. The 2nd respondent has filed a counter affidavit and the relevant portions in the counter affidavit are extracted hereunder:

5. I respectfully submit that the Petitioner herein is strictly bound by the terms and conditions set out in the tender document (June 2019) and the lease agreement dated 05.02.2020 which were signed by him with free will. I respectfully submit that as per clause 4.18 of the tender document it specifically stipulated that if the selected canteen operator does not pay rent for two consecutive months or violated any other terms and conditions, the contract may be terminated.

6. I respectfully submit that as per clause 7.2.2 the successful bidder should start operations within 7 days from the date of Letter of Intent. I respectfully submit that the Order of the 2nd Respondent accepting the bid vide Roc.No.15353/2019/OP3 was issued on 24.10.2019 to the petitioner. It is also specifically informed to the petitioner to execute the agreement within 7 days from the letter of intent dated 24.10.2019. I respectfully submit that since the petitioner herein did not come forward to execute the agreement a communication was sent by the 2nd Respondent to the petitioner vide Roc.No.15353/2019/OP3 dated 24.12.2019 requesting him to execute the agreement and to pay the refundable deposit of Rs.5,00,000/- within 7 days from the receipt of the letter. Again on 30.01.2020 another letter was sent to the petitioner for the stating the same. However, the petitioner herein executed the agreement only after 3 months of delay i.e., on 05.02.2020.

7. I respectfully submit that the lease Agreement dated 05.02.2020 expired on 05.02.2021 and the contract of lease was not renewed for second year because the petitioner had not complied with the terms of the agreement and based on the Canteen operator's performance and the 2nd Respondent also reserves the right to invite fresh tender. I respectfully submit that the Petitioner had not setup canteen and also served food from outside which was not hygiene and therefore the lease was not received.

8. I respectfully submit that as per lease Agreement, the petitioner is required to establish a canteen to cook and serve food to the employees working in the Urban Administration Building. I



rent. This Government Order is not applicable to the respondents and it pertains only to the local bodies. Therefore, under the agreement, default in payment of rent for two consecutive months will result in termination of the agreement.

WEB COPY

11.The 2nd respondent has taken a stand in the counter affidavit that the one year period expired on 05.02.2021 and considering the poor performance of the petitioner, the contract was not extended and such a right was retained by the 1st respondent even under the lease agreement.

12.In a matter involving contractual agreement between parties, this Court will be slow in interfering with the same while exercising its jurisdiction under Article 226 of the Constitution of India. In all such cases, the parties concerned can only agitate their disputes before the appropriate civil Court or if an arbitration is provided, before the Arbitration Tribunal. Just because the instrumentality of the state is a party to the agreement, that cannot be a ground to file a writ petition before this Court.

13.This Court does not find any illegality or infirmity in the decision taken by the respondents and the decision taken was well within the terms and conditions prescribed under the Tender Notification and the Lease Agreement entered into between the parties. The petitioner seems to be complaining only on the ground that there was a lock down due to the pandemic situation. Such a stand taken by the petitioner does not hold water since, the petitioner was failing to establish a canteen in the area allotted to him right from December, 2019 onwards. Even thereafter, the petitioner never established a canteen and therefore, no useful purpose will be served by continuing the agreement with the petitioner. The very purpose for which the Tender Notification was issued, was defeated by not establishing a canteen right through. Therefore, this Court does not find any justification to interfere with the decision taken by the respondents not to grant waiver of rent and not to extend the contract beyond 05.02.2021.

14.In the result, this writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

SSr

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



To

1. The Commissioner of Municipal Administration,
Urban Administrative Building,
MRC Nagar, Chennai - 600 028.
2. The Member Secretary of UBAS/
The Joint Commissioner of Municipal Administration,
Urban Administrative Building,
MRC Nagar, Chennai - 600 028.

+1cc to Mr.D.Veerasekaran, Advocate, SR.No.41610
+1cc to Mr.L.P.Maurya, Advocate, SR.No.41787
+1cc to Government Pleader, SR.No.42074

W.P.No.1176 of 2021
and W.M.P.Nos.16202, 1324 & 1326 of 2021

KSM(CO)
CT (08/09/2021)