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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2021

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.6912 of 2021
and W.M.P.No.7466 & 10257 of 2021

B.Selvaraj

...Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by the Secretary to Government,
Municipal Administration & Water Supply (MA.IV) Department,
Secretariat, Chennai - 600 009.
2. The Commissioner,
Salem City Municipal Corporation,
Salem - 636 001.
3. The Assistant Commissioner,
Salem City Municipal Corporation,
Suramangalam Zone, Suramangalam Ward Office,
Behind Salem Railway Junction,
Old Suramangalam, Salem - 636 005.
4. The Assistant Director,
Fisheries Development Department,
Mettur Dam, Salem - 363 401.

5. A.Balakrishnan

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, calling for the entire records relating to the Tender Notification No.K1/0416/2021 dated 01.02.2021 from the file of the 2nd Respondent, quash the same and further direct the 2nd respondent to consider the petitioner's representation dated 12.01.2021, 05.02.2021 and 11.02.2021 submitted to the 2nd respondent praying for waiver of the License Fee for the year 2020-21 and also for extension of the license period by another six months i.e., till 30.09.2021.



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For Petitioner : Mr.D.Sivakumar

For Respondent : Mr.U.Baranidharan
Government Counsel for R1 & R4
Mr.S.Sathish
Standing Counsel for R2 & R3

O R D E R

This writ petition has been filed challenging the tender notification issued by the 2nd respondent dated 01.02.2021 and for a direction to the 2nd respondent to consider the representations made by the petitioner seeking for waiver of the license fee and for extension of the license period by another six months.

2.The 2nd respondent had floated tender calling for bids for issuing license to collect the fees from the weekly shandis. The petitioner was the highest bidder and he was granted license for a period from 01.04.2018 to 31.03.2019. Thereafter, the license that was granted to the petitioner was extended for a further period from 01.04.2019 to 31.03.2020 and once again from 01.04.2020 to 31.03.2021. It is stated that the petitioner was also asked to pay the license fee with an increase of 5% for every extension that was granted to the petitioner.

3.The grievance of the petitioner is that during the pandemic period, there was a complete lock down and therefore, for most of the period between 2020-2021, the petitioner was never able to collect any fees.

4.The petitioner therefore made a representation to the 2nd respondent requesting for waiver of the license fee and also for extension of the license period for six months. This representation was not considered and the 2nd respondent proceeded to issue a fresh tender notification dated 01.02.2021. Aggrieved by the same, the present writ petition has been filed before this Court.

5.The 3rd respondent has filed a counter affidavit. It is stated in the counter affidavit that pursuant to the tender that was called for, one M.Shanmuga Sundaram was the highest bidder and it was also finalized in his favour. It is further stated in the counter affidavit that insofar as the waiver of the license fee, the matter is pending before the Division Bench of the Madurai Bench of this Court and the order of the learned Single Judge was also stayed by the Division Bench. Hence, the 3rd respondent has sought for dismissal of this writ petition.



6. Heard Mr.D.Sivakumar, learned counsel appearing on behalf of the petitioner, Mr.U.Baranidharan, learned Government counsel appearing on behalf of the respondents 1 and 4 and Mr.S.Sathish, learned Standing Counsel appearing on behalf of the respondents 2 and 3.

7. In the considered view of this Court, the license period of the petitioner has come to an end on 31.03.2021 and the extension that was sought for by the petitioner is also almost coming to an end by the end of this month. Therefore, no useful purpose will be served by issuing a direction to the respondent Corporation to consider the extension of license period of the petitioner. This is more so since the respondent Corporation has already issued a fresh tender notification and the tender also been awarded in favour of the highest bidder viz., Mr. Shanmuga Sundaram.

8. In view of the above, the only other issue that requires the consideration of this Court is with regard to the waiver of the license fee claimed by the petitioner. Insofar as this issue is concerned, the matter is pending before the Division Bench of this Court, Madurai Bench. Till a decision is taken in the Writ Appeal, it may not be possible for the respondent Corporation to grant waiver of the license fee beyond two months as provided under G.O.(D)No.298 Municipal Administration & Water Supply (MA.IV) Department, dated 02.09.2020. Therefore, the representation made by the petitioner in this regard shall be kept pending by the respondent Corporation awaiting the orders of the Division Bench. After the orders of the Division Bench, the representation made by the petitioner shall be considered and appropriate decision shall be taken by the 2nd respondent. If ultimately, the Division Bench confirms the order of the learned Single Judge, there is scope for the petitioner to get refund of the license fee. Therefore, till this issue is finalized, the respondent Corporation shall keep the demand insofar as the license fee is concerned in abeyance.

9. This writ petition is disposed of accordingly. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssr



To

1. The Secretary to Government,
Municipal Administration & Water Supply (MA.IV) Department,
Secretariat, Chennai - 600 009.
2. The Commissioner,
Salem City Municipal Corporation,
Salem - 636 001.
3. The Assistant Commissioner,
Salem City Municipal Corporation,
Suramangalam Zone, Suramangalam Ward Office,
Behind Salem Railway Junction,
Old Suramangalam, Salem - 636 005.
4. The Assistant Director,
Fisheries Development Department,
Mettur Dam, Salem - 363 401.

+1cc to Mr.D.Shivakumaran, Advocate, S.R.No.45159

+1cc to the Government Pleader, S.R.No.45524

W.P.No.6912 of 2021
and

W.M.P.No.7466 & 10257 of 2021

SVI (CO)
RGA(06/10/2021)