



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.NO.18643 OF 2021

&

W.M.P.NO.19884 OF 2021

M.Sridhar

... Petitioner

-Vs-

The Commissioner,
Tiruttani Municipality,
Tiruttani,
Tiruvallur District.

... Respondent

PRAYER:- Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus or direction in the nature of the Writ to direct the Respondent to extend the period to license to further 280 days or more than the same as per the request made vide representation dated 19.07.2021 and acknowledged by the Respondent on 19.07.2021 without making any enhanced demand on the license fee considering the pandemic prevailed situation.

For Petitioner : Mr.V.Manohar

For Respondents : Mr.P.Srinivas
Standing Counsel

O R D E R

This writ petition has been filed for the issue of a writ of Mandamus directing the respondent to consider the representation made by the petitioner on 19.07.2021 wherein the petitioner has sought for extension of the license period for 280 days without making any enhanced demand of the license fee.

2. It is seen from records that the petitioner was the highest bidder in the auction that was conducted by the respondent in the year 2018, wherein the petitioner was granted license for maintaining the toilets in the bus stand at



Thiruvallur Municipality. The license was for the period of three years from 01.10.2018 to 30.09.2021. The license fee is payable every year with an enhancement of 5% for each extension.

3. The grievance of the petitioner is that there was a complete lock down from March 2020 onwards and the toilets were closed and there was no scope for the petitioner to collect any fees, since there were no users. Therefore, the petitioner made a representation to the respondent seeking for extension of the license period without making any enhanced demand of license fee. Since the same was not considered, the present writ petition has been filed before this Court seeking for appropriate directions.

3. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents.

4. It is an admitted case that the petitioner has already paid the license fee for two years and the dispute is only with regard to the last year, where the license period is coming to an end on 30.09.2021. According to the petitioner, he was not able to collect any fees due to the complete lock down from March 2020 onwards. The respondent through letter dated 30.09.2020 has directed the petitioner to pay the license fee of a sum of Rs.7,85,989/- including tax after deducting two months license fees as per the Government order.

5. The grievance of the petitioner is that this license fee is being demanded inspite of the fact that there was a lock down and the petitioner has not collected any fees, since there were no users of the toilets. Therefore, the petitioner is seeking for extension of the license period without collecting enhanced license fees as demanded through letter dated 30.09.2020.

6. The learned Standing counsel appearing on behalf of the respondent municipality submitted that the license period is coming to an end on 30.09.2021 and thereafter, the respondent municipality is going to call for fresh auction in order to grant the license for the subsequent period. The learned counsel further submitted that unless the petitioner pays the entire license fees for the 3rd year, he will not be entitled to participate in the auction.

7. The issue on hand has been considered by the learned Single Judge of this Court and it was held in favour of the licensees. The same was taken on appeal and the Division Bench of this Court has stayed the operation of the order of the learned Single Judge. The matter is at the stage of final hearing before the Division Bench and the local bodies are awaiting for this order to act accordingly. Till final orders



are passed by the Division Bench, the local bodies cannot take any decision with regard to the request for exemption in payment of the license fees during the entire lock down period.

8. In view of the above, it is left open to the petitioner to make the entire payment to the respondent as per the notice dated 30.09.2020. At least, this will ensure that the petitioner is permitted to participate in the fresh auction that is conducted for granting license from 01.10.2021 onwards. Insofar as the claim made by the petitioner seeking for the refund of the license fees for the entire lock down period, the same shall await the orders of the Division Bench. If ultimately the Division Bench affirms the order passed by the learned Single Judge, the petitioner will be entitled for the refund of the amount for the lock down period, or otherwise, if the judgment is reversed, the petitioner would have already paid the entire license fees and therefore, the respondent municipality will not be put to any loss. Therefore, the representation made by the petitioner seeking for the refund of the license fees for the entire lock down period shall be kept in abeyance and the request can be renewed after the final orders are passed by the Division bench in the pending Writ Appeal. To that extent, the interest of the petitioner is safeguarded.

9. This writ petition is disposed of accordingly.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rka/sha

To

The Commissioner,
Tiruttani Municipality,
Tiruttani,
Tiruvallur District.

+1cc to Mr.V.Manohar, Advocate, S.R.No.46074

WRIT PETITION NO.18643 OF 2021
& W.M.P.NO.19884 OF 2021

KSM(CO)
PBS/06/10/2021