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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WRIT PETITION NO.20283 OF 2021

AND

W.M.P.NOS.21535 AND 21537 OF 2021

R.Vellingiri

...Petitioner

-Vs-

1. The Government of Tamil Nadu
Rep.by its Secretary to Government
Municipal Administration & Water Supply
Department, Chennai 600 009.
2. The Commissioner of Municipal Administration
Chennai 600 028.
3. The Commissioner, Dharapuram Municipality
Dharapuram, Tiruppur District.

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to impugned tender notice issued by the 3rd respondent in Na.Ka.No.4700/2020/A3 dated 07.09.2021, and quash the same as illegal, incompetent and without jurisdiction and consequentially directing the respondents to waive the lease amount from 24.03.2020 to 30.09.2020 and for the period from 10.05.2021 to 10.07.2021 on account of Covid-19 pandemic lockdown (1st and 2nd wave) or to extend the lease period of 9 months from 01.10.2021.



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For Petitioners : Mr.Ma.P.Thangavel

For Respondent : Mr.U.Baranidharan,
Government Advocate

ORDER

The subject matter of challenge in the present writ petition pertains to the tender notification issued by the third respondent on 07.09.2021. The case of the petitioner is that, he was the successful bidder in the auction that was conducted by the third respondent and he was granted license for collecting fees from the cycle stand near the New Bus Stand at Dharapuram Municipality. The license was granted for a period of three years starting from 2018 and ending in 2021. According to the petitioner, his license period ends on 30.09.2021.

2. The further case of the petitioner is that, he has also paid a sum of Rs.8,00,000/- towards Earnest Money Deposit. It is stated that, for the first year of the license period viz., 2018-19, the petitioner has already paid the necessary fee. Similarly, the petitioner had paid the increase of the license fee for every extension at the rate of 5% from the existing license fee.

3. The grievance of the petitioner is that during the third year of the license period, ie., from 2020-21, which commenced from 01.04.2020, the petitioner was not in a position to collect any fee from the cycle stand due to the lockdown announced by the Government considering the pandemic situation. A demand was made by the third respondent for the payment of the license amount and the petitioner, aggrieved by the same, also filed a writ petition before this Court in W.P.No.1646 of 2021 and the said writ petition was entertained and an interim order staying the demand was passed on 02.02.2021.

4. The grievance of the petitioner is that, even thereafter the lockdown was continued and therefore the petitioner was not able to collect any fees from the cycle stand and the petitioner had incurred huge losses.



5. The petitioner therefore made a representation to the respondents to waive the license fees for the period from May to July 2020. Even without considering this request, the third respondent proceeded further to issue the tender notice dated 07.09.2021. Aggrieved by the same, the present writ petition before this Court with the aforesaid prayer.

6. Heard Mr.Ma.P.Thangavel, learned counsel for the petitioner and Mr.U.Baranidharan, learned counsel for the respondents.

7. Insofar as the demand made by the third respondent for the payment of the license amount, this Court, by taking into consideration the facts and circumstances of the case, granted an order of interim stay and the writ petition in W.P.No.1646 of 2021 is pending. The license period is coming to an end on 30.09.2021. Therefore, the third respondent has proceeded further to issue a fresh tender notice inviting the bids. Aggrieved by the same, the petitioner has once again approached this Court.

8. In the considered view of this Court, there is absolutely no ground to interfere with the tender notice issued by the third respondent. On the expiry of the period, the third respondent has to necessarily call for a tender and issue fresh license for collection of the fees from the cycle stand.

9. In view of the above discussion, this court is not inclined to interfere with the tender notice issued by the third respondent. However, taking into consideration the fact that the amount paid by the petitioner to the tune of Rs.8,00,000/- towards Earnest Money Deposit is lying with the third respondent, it will be left open to the petitioner to participate in the tender and submit the bid. Insofar as the claim made by the petitioner seeking for recovery / adjustment of the license amount is concerned, the third respondent shall await the orders of the Division Bench where the matters are pending on the very same issue. If ultimately the Division Bench confirms the order of the learned single Judge, it is left open to the petitioner to revive his claim seeking for adjustment / refund of the license amount. To this extent, the interest of the petitioner is safeguarded.



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

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

KST

To

1. The Government of Tamil Nadu
Rep.by its Secretary to Government
Municipal Administration & Water Supply
Department, Chennai 600 009.
2. The Commissioner of Municipal Administration
Chennai 600 028.
3. The Commissioner, Dharapuram Municipality
Dharapuram, Tiruppur District.

+1cc to M/s.Ma.P.Thangavel, Advocate, S.R.No.49336

+1cc to the Government Pleader, S.R.No.49457

W.P.No.20283 of 2021

PMK(CO)
RLP(05/10/2021)