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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. No.21557 of 2021
and W.M.P. Nos.22758 & 22759 of 2021

K.Selvaraj

... Petitioner

-Vs-

1.Salem Corporation,
Rep. by its Commissioner,
Officer of the Commissioner,
Salem.

2.The Assistant Commissioner,
Salem Corporation,
Sooramangalam Ward Office,
Sooramangalam,
Salem.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 1st respondent date 28.9.2021 in Na.Ka.No.K1/3631/2020 and quash the same.

For Petitioner : Ms.K.Selvaraj

For Respondents : Mr.S.Sathish
Standing Counsel

O R D E R

On consent given by either side, the main writ petition itself is taken up for final hearing.

2.The subject matter of challenge in the present writ



petition pertains to the impugned proceedings of the 1st respondent on 28.09.2021 wherein the license that was granted in favour of the petitioner has been canceled by the 1st respondent.

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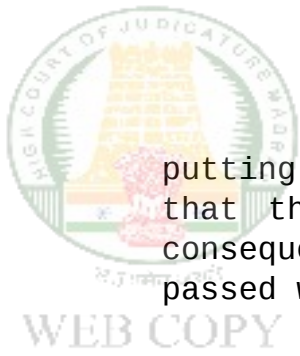
3.The case of the petitioner is that the respondent Corporation called for tenders for grant of lease-cum-license to collect toll charges and provided a vacant site to the extent of 19,800 sq.ft for parking the private Omnibuses. The petitioner participated in the said tender and he was selected. The license was issued for a period of three years, starting from the year 2020-21 and for each renewal, the petitioner had to pay 5% increase from the existing license/lease amount.

4.The further case of the petitioner is that the petitioner had already deposited the license/lease amount along with the tax for the first year to the tune of Rs.15,42,500/- The petitioner also entered into a lease agreement with the 2nd respondent and pursuant to the same, the petitioner was permitted to put up seven temporary sheds for the purpose of seating arrangements for the passengers and also for time keeper office. The petitioner was also directed to pay a sum of Rs.15,750/- per month for the temporary sheds that were put up in the land belonging to the respondents.

5.The petitioner all of a sudden got the impugned proceedings of the 1st respondent dated 28.09.2021 wherein, the petitioner was informed that the license-cum-lease stands canceled. The petitioner is aggrieved by the action taken by the 1st respondent more on the ground that this decision was taken by the 1st respondent without putting the petitioner on notice and without affording any opportunity to the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court.

6.Heard Mr.K.Selvaraj, learned counsel appearing on behalf of the petitioner and Mr.S.Sathish, learned Standing Counsel appearing on behalf of the respondents 1 and 2.

7.The learned counsel for the petitioner submitted that the petitioner had hardly utilized the license-cum-lease for four months out of the entire year 2020-21. While so, the 1st respondent has proceeded to cancel the license-cum-lease by making certain allegations against the petitioner without even



putting the petitioner on notice. The learned counsel submitted that the impugned proceedings of the 1st respondent has civil consequences and therefore, such an order should not have been passed without giving opportunity to the petitioner.

8. Per contra, the learned Standing Counsel appearing on behalf of the respondent Corporation submitted that there were complaints to the effect that the petitioner was collecting three times more than what was fixed towards the toll fee and the same is in violation of the terms and conditions of the tender. The learned counsel further submitted that the area that is occupied by the temporary shed is required for the purpose of expansion of the bus stand. Therefore, considering the public interest, the respondents took a decision. The learned counsel submitted that there are no grounds to interfere with the same.

9. This Court has carefully considered the submissions made on either side and also the materials available on record.

10. The impugned proceedings of the 1st respondent is liable to be interfered on the ground that the same is in violation of the principles of natural justice. It is an admitted case that the petitioner was provided with the lease-cum-license for a period of three years starting from 2020-21. It is claimed by the petitioner that he had hardly collected the toll fees for four months out of the entire year and in the meantime, the respondents had proceeded to cancel the lease-cum-license.

11. The petitioner has acquired a right by virtue of the license-cum-lease granted in his favour. Therefore, when the right is sought to be taken away, the minimum that is required to be followed by the respondents is to give an opportunity to the petitioner and thereby fulfill the requirements of the principles of natural justice. The decision taken by the 1st respondent obviously has civil consequences and therefore, it mandates the 1st respondent to put the petitioner on notice before taking any decision.

12. In view of the above discussion, the action taken by the 1st respondent without affording opportunity to the petitioner is liable to be interfered by this Court.



13. Taking into consideration the facts and circumstances of the case, the impugned proceedings of the 1st respondent dated 28.09.2021 will be construed as a Show Cause Notice and the petitioner is directed to give a reply to the Show Cause Notice, within a period of four weeks from the date of receipt of copy of this order. The 1st respondent shall consider the same and shall provide an opportunity to the petitioner and shall take a decision on its own merits and in accordance with law. Till a final decision is taken by the 1st respondent, the lease-cum-license granted in favour of the petitioner will be in force and the petitioner will be permitted to collect the toll fees as per the agreement.

14. In the result, this writ petition stands allowed with the above directions. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

ssr

To

1. Salem Corporation,
Rep. by its Commissioner,
Officer of the Commissioner,
Salem.

2. The Assistant Commissioner,
Salem Corporation,
Sooramangalam Ward Office,
Sooramangalam,
Salem.

+1cc to M/s.K.Selvaraj, Advocate, S.R.No.51392

W.P. No.21557 of 2021
and W.M.P. Nos.22758 & 22759 of 2021

RSI(CO)
SB(26/10/2021)