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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.2281 of 2018
and C.M.P.No.18239 of 2018

Shenoy Nagar Brewery Salai
Viyabarigal Nala Sangam
Regn.No.102/2011 by its Secretary,
Brewary Project No.2, Shenoy Nagar,
Chennai - 30.

.. Appellant

Vs

1. State of Tamil Nadu
Rep. by the Secretary,
Municipal Administration & Water
Supply Department,
Fort St.George, Chennai - 9.
2. The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai.
3. The Assistant Commissioner,
Zone 8, Chennai Corporation,
36B, Pulla Avenue, Chennai - 40.

.. Respondents

Appeal filed under Clause 15 of Letters Patent against the order dated 20.11.2017 made in W.P.No.24208 of 2017.

Prayer in W.P.No.24208 of 2017:

Petition under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent relating to Resolution No.143 of 2017 dated 16.03.2017 passed by the 3rd respondent and quash S.No. 6 relating to the petitioner and the consequential orders dated 09.06.2017 and 07.07.2017 and direct the respondents to re-fix the lease amount.



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For Appellant : Ms.Hema Sampath, Sr.Counsel
for Ms.R.Meenal

For Respondents : Mr.S.John J Raja Singh,
Government Counsel for R1

Mr.K.Raja Srinivas for R2 and R3

JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

This writ appeal has been preferred by the appellant being aggrieved against the order of the learned Single Judge, who declined to interfere with the decision made by the respondent/Corporation with respect to the licence fee fixed.

2. The appellant is the Association of the existing licensees. Their licences have been extended by virtue of the Government Order passed in G.O.Ms.No.92, Municipal Administration, Water Supply Department dated 03.07.2007. Therefore, a decision was made giving an offer to the existing licensees to continue instead of fresh auction. The members of the appellant Association accepted the aforesaid offer and continued as licensees. However, they made out a grievance with respect to the rent fixed in tune with the aforesaid Government Order. The learned Single Judge placing reliance upon the order of the Division Bench, dismissed the writ petition and hence the present appeal.

3. Learned Senior Counsel appearing for the appellant contended that the rent has been fixed arbitrarily and therefore the order requires interference. The nature of area will have to be seen before fixing the rent.

4. Learned counsel appearing for the respondent/Corporation submitted that rent has been fixed on the advice of the Committee constituted and in tune with the Government Order passed.

5. We do not find any reason to interfere with the order passed by the learned Single Judge. What has been given to the existing licensees is a concession. That concession is coupled with terms imposed there under. Otherwise, the respondents are duty bound to go for a fresh auction. The said concern has been extended to the existing licensees and pursuant to the licences granted to them long time back. Therefore, they cannot wriggle out of the same and contend to the contrary that the lesser rent will have to be fixed.



6. The rent has been fixed on the advice of the Committee constituted which in turn has taken into consideration the relevant materials including the market value and the potential of the land. This Court cannot exercise the power under Article 226 of the Constitution of India to review the said decision.

7. In such view of the matter, we do not find any error warranting interference and the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS-VIII)

True Copy

Sub-Assistant Registrar

mmi/ssm

To

1.The Secretary,
Municipal Administration & Water Supply Department,
Fort St.George, Chennai - 9.

2.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai.

3.The Assistant Commissioner,
Zone 8, Chennai Corporation,
36B, Pulla Avenue, Chennai - 40.

+1 CC to The Government Pleader sr 30421.

+1 CC to Mr.K.Raja Srinivas, Advocate sr 30611.

W.A.No.2281 of 2018

KV(CO)
SP(27/07/2021)