



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.1378 of 2021

and

W.M.P.(MD)Nos.1177 & 1180 of 2021

WEB COPY

K.M.Mohideen Pitchai

... Petitioner

-Vs-

The Commissioner,
Kadayanallur Municipality,
Kadayanallur.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to tender Na.Ka.No.4959/2020/m3, dated 30.12.2020, in respect of Item No.7, pertaining to license/lease for collecting fees at two wheeler stand at kadayanallur bus stand, Tenkasi District and quash the same and further direct the respondent to extend the period of license for collecting fee at two wheeler stand at kadayanallur bus stand, Tenkasi District for five months from 31.03.2021 to 31.08.2021.

For Petitioner : Mr.T.S.Mohamed Mohideen

For Respondents : Mr.M.Rajarajan

Additional Government Pleader

ORDER

The petitioner Thiru.K.M.Mohideen Pitchai was granted license to collect user fee in respect of the two wheeler stand at Kadayanallur Bus Stand, Tenkasi. The license was for a period of three years. It expires on 31.03.2021. The respondent Municipality has now issued tender notification proposing to hold fresh auction for the period commencing from 01.04.2020. The petitioner challenges the same by pointing out that during the pandemic period, he was not allowed to collect any user fee.

2.I am afraid that on this ground, I may not be in a position to set aside the impugned auction notice. However, in as much as, the petitioner was frustrated from enjoying the fruits of the license on account of the lockdown announced by the Government, he is entitled to refund of the proportionate license fee.

3.The learned Additional Government Pleader appearing for the Municipality states that the Government of Tamil Nadu has issued orders in this regard and that, the petitioner has given a



representation and that his representation will be considered in the light of the G.O.Ms.No.298, dated 04.09.2020.

4.I am not able to appreciate the stand of the respondent. When the two wheeler stand was ordered to be closed down by the Government, the proportionate license fee will have to be refunded to the petitioner immediately and without delay. Even while declining to interfere with the impugned tender notification, I direct the respondent to refund the proportionate license amount to the petitioner immediately and without any delay. The petitioner can also participate in the auction to be conducted. The Writ Petition is disposed of with the aforesaid direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl Side)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
The Commissioner,
Kadayanallur Municipality,
Kadayanallur.

+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate (SR-2492[F] dated 29/01/2021)

+1 CC to M/s.M.RAJARAJAN, Advocate (SR-2064[F] dated 25/01/2021)

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25.01.2021

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