



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 02.02.2021**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P (MD)No.1532 of 2021**

**and**

**W.M.P. (MD)No.1312 of 2021**

Isakithai,  
The Promoter,  
"Thamarai Mahalir Suya Udavikkulu"  
(Thamari Women's Self-Help Association),  
Agricultural Cooperative Thrift Society,  
No.205, Railway Feeder Road,  
Sankarankovil, Tenkasi District. ... Petitioner

**Vs.**

- 1.The Regional Director of Municipalities,  
Palayamkottai, Tirunelveli -2,  
Tirunelveli District.
- 2.The Commissioner,  
Sankarankovil Municipality,  
Tenkasi District.
- 3.The Government of Tamil Nadu,  
Rep. by its Secretary to Government,  
Municipal Administration & Water Supply Department,  
St.George Fort, Chennai - 600009. ... Respondents  
(R3 is suo motu impleaded vide Court order  
dated 02.02.2021 in W.P. (MD)No.1532 of 2021)

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the 2<sup>nd</sup> respondent from making new auction by calling for closed tender to be held on 11.00 A.M., Wednesday dated 03.02.2021, allowing this petitioner association to continue the lease right of collecting fee for the pay and use latrine in Sankarankovil Anna Bus Stand for the further period of 2021 to 2024, on the same lease amount of Rs.12,70,815/- already this petitioner got the lease for the same year.



For Petitioner : Mr.Eugene.F.X.

For Respondents : Mrs.M.Rajeswari,  
Government Advocate for R1 & R3  
Mr.P.Mahendran.  
Standing counsel for R2

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**ORDER**

Heard the learned counsel on either side.

2.The writ petitioner is a self help group. They were granted license to collect charges from the users of the public toilet located in Sankarankovil Anna Bus Stand. The license period was from 01.04.2020 to 31.03.2021. The petitioner had paid the license fee of Rs.12,70,815/-. The second respondent/Licensing Authority had issued notification dated 24.12.2020 and published in the local daily proposing to hold tender/auction for granting license for the period commencing from 01.04.2021. Though the writ petition has been filed in the nature of Writ of Mandamus, in substance this proposed move is put to challenge by the petitioner. The petitioner wants this Court to direct the second respondent to permit the petitioner to continue to collect the users fee. In other words, the petitioner seeks extension of the license.

3.The reason for making the request is that though the petitioner was granted license with effect from 01.04.2020, admittedly the bus stand in question remained closed from 24.03.2020 to 31.08.2020. The Municipality would state that in view of the G.O.(D) No.298, Municipal Administration and Water Supply (MA.IV) Department, dated 02.09.2020, they can grant only waiver of the lease amount for two months.

4.I considered the rival contentions. When the Licensing Authority pursuant to the direction from the Government had prevented the licensee from enjoying the fruits of license, the question is whether the petitioner is also correspondingly relieved from the obligations to pay the license fee.

5.This Court while passing orders in W.P.(MD)No.19596 of 2020, had held that the licensee should be relieved from their obligations to pay the license fee for the period, when the shops were ordered to be closed. This Court had also permitted the licensee to submit their representation projecting their grievances for the period subsequent to 01.09.2020 till the lockdown was fully lifted. I am of the view that the petitioner herein can be the given very same benefit, since they have



undertaken not to insist on renewal of the license.

6. On this ground, I am not inclined to interfere with the proposed tender process. The revenue interest of the local body cannot be lost sight of by this Court. Therefore even while permitting the second respondent to go ahead with the tender process, I direct the respondents to refund the the proportionate license fee of the petitioner herein.

7. The petitioner's counsel would point out that even though the bus stand was reopened on 01.09.2020, lockdown restrictions were not fully lifted. Therefore, for the period commencing from 01.09.2020, the petitioner is permitted to submit a representation for reduction of the license fee. The said application will be forwarded by the second respondent to the third respondent, who shall pass appropriate orders in accordance with law. The petitioner is also permitted to participate in the proposed tender process.

8. The writ petition is disposed of on these terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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:

1. The Regional Director of Municipalities,  
Palayamkottai, Tirunelveli -2,  
Tirunelveli District.



2.The Secretary to Government,  
Municipal Administration & Water Supply Department,  
St.George Fort,  
Chennai - 600009.

3.The Commissioner,  
Sankarankovil Municipality,  
Tenkasi District.

+1 CC to M/s.P.MAHENDRAN, Advocate ( SR-3248[F] dated 04/02/2021 )  
+1 CC to M/s.F.X.EUGENE, Advocate ( SR-2970[F] dated 02/02/2021 )  
+1 CC to M/s.GP ( SR-3288[F] dated 04/02/2021 )

**W.P (MD) No.1532 of 2021**  
**02.02.2021**  
(2/2)

nsm(CO)  
TR(05.03.2021) 4P 7C