



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.12795 of 2021

and

W.M.P(MD) .Nos.9949, 9950 and 9951 of 2021

R.Ashok Kumar

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary,
Department of Municipal Administration & Water Supply,
Fort.St.George,
Chennai-9.

2.The Commissioner of Municipal Administration,
No.78, Urban Administrative Building,
Santhome High Road, MRC Nagar,
Raja Annamalainagar,
Chennai-28.

3.The Corporation of Madurai,
Represented by its,
The Commissioner,
Aringar Anna Maligai, Outpost, Thallakulam,
Madurai-625 002.

4.The District Collector,
District Collectorate,
Madurai,
Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Mava4/000600/2021 dated 28.05.2021 on the file of the respondent No.3 and quash the same as illegal and consequently direct the respondent No.3 herein to extend the licence period equivalent to the lock down period of 191 days from 25.03.2020 to 01.06.2020, 24.06.2020 to 30.06.2020, 01.07.2020 to 31.07.2020, 01.08.2020 to 06.09.2020, 10.05.2021 to 28.06.2021 in view of COVID-19 pandemic Government total lock down regulations for the Two-Wheeler and Cycle Parking at Arapalayam Bus stand, Madurai or in the alternative to return the proportionate licence fee to the complete lock down period of 191 days from 25.03.2020 to 01.06.2020, 24.06.2020 to 30.06.2020, 01.07.2020 to 31.07.2020, 01.08.2020 to 06.09.2020, 10.05.2021 to 28.06.2021 to the petitioner.

For Petitioner : Mr.T.Lajapathi Roy

For R1, R2 and R4 : Mr.K.S.Selva Ganesan,



For R3

Counsel for State.
: Mr.P.Athimoola Pandian

ORDER

The petitioner seeks extension of the licence period by 191 days on account of the lock down occasioned by the COVID- 19 pandemic.

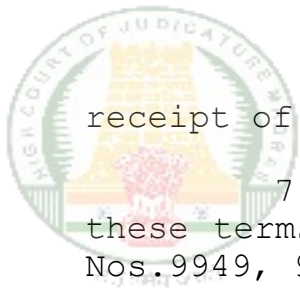
2. The petitioner was awarded a licence to operate a two-wheeler and cycle parking lot at the Arapalayam Bus Stand, Madurai. In connection therewith, it is stated that the petitioner paid a sum of Rs.25,01,050/- (Rupees Twenty Five Lakhs One Thousand and Fifty only) as licence fee for the year 2018-2019. The licence period was for three (3) years with provision for an increase of the licence fee by 5% in the succeeding years.

3. According to the petitioner, he was unable to operate the two-wheeler and cycle parking facility in view of the lock down announced by the Government because of the COVID-19 pandemic. Consequently, the petitioner's revenue from such licence was adversely affected. In such circumstances, the petitioner has challenged a tender notification dated 28.05.2021 and also sought for extension of the licence period. In the alternative, the petitioner has requested that the licence fee proportionate to the 191 day period be refunded to him.

4. Mr.K.S.Selva Ganesan, learned counsel for the State, appears on behalf of respondents 1, 2 and 4 and Mr.P.Athimoola Pandian, learned standing counsel, appears for the Corporation of Madurai. Mr.Athimoola Pandian submits that a policy decision was taken by the State to waive the fee for the months of April and May 2021. In terms thereof, the benefit was extended to the petitioner. Beyond that, he submits that it may not be possible to grant any further relief to the petitioner. He refers to earlier decisions of this Court whereby a request for extension of licence was rejected.

5. The COVID-19 pandemic is an unprecedented occurrence. Such an eventuality could not have been reasonably foreseen by any contractor. Therefore, a request for extension in this context cannot be equated with a request for extension in the usual course of business. At the same time, it should be borne in mind that the State or even the local government is required to act in a non-discriminatory manner and, therefore, cannot extend such benefits on a case by case basis. Therefore, only a policy decision can be taken and applied to a particular class of persons.

6. Subject to the above observations, the third respondent herein is directed to consider the petitioner's request for an extension. A reasoned order in such regard shall be issued to the petitioner within a period of thirty (30) days from the date of



receipt of a copy of this order.

7. Accordingly, W.P.(MD).No.12795 of 2021 is disposed of on these terms without any order as to costs. Consequently, W.M.P(MD). Nos.9949, 9950 and 9951 of 2021 are closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/LM

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 Secretary,
the Government of Tamil Nadu,
Department of Municipal Administration & Water Supply,
Fort.St.George, Chennai-9.

2.The Commissioner of Municipal Administration,
No.78, Urban Administrative Building,
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3.The Commissioner,
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Madurai-625 002.

4.The District Collector,
District Collectorate,
Madurai, Madurai District.

+1 CC to M/s.SPL GP (SR-28830[F] dated 13/09/2021)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-28731[F] dated 09/09/2021)

W.P (MD) No.12795 of 2021
08.09.2021

NSN(CO)

KB(16.09.2021) 3P 7C

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