



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2021

CORAM

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD) Nos.13006 & 13143 of 2021

and

W.M.P. (MD) .Nos.10079, 10154 & 10156 of 2021

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P.Kaliappan

... Petitioner in
W.P.No.13006 of 2021

D.Senthilmurugan

... Petitioner in
W.P.No.13143 of 2021

Vs.

1.The District Collector,
Karur District,
Karur.

2.The Block Development Officer
Commissioner,
O/o.The Block Development Officer/
Commissioner,
Thogaimalai,
Karur District.

... Respondents in both
cases

Prayer in W.P. (MD) .No.13006 of 2021: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to Impugned Tender Notification dated 14.07.2021 in Na.Ka.No.A5/623/2021 published in Tamil Vernacular Daily (Thinadhanthi), Trichy Edition dated 17.07.2021 as far as Item No.2 is concerned and quash the same as illegal and consequently direct the respondents to extent the period of licence to the petitioner from 01.08.2021 to 30.07.2022 to collect the tax at weekly market situated at Kavalkaranpatti, Kulithalai Taluk, Karur District within the time stipulated.

Prayer in W.P. (MD) .No.13143 of 2021: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to Impugned Tender Notification dated 14.07.2021 in Na.Ka.No.A5/623/2021 published in Tamil Vernacular Daily (Thinadhanthi), Trichy Edition dated 17.07.2021 as far as Item No.1 passed by the second respondent is concerned and quash the same as illegal and consequently direct the respondents to extent the period of licence to the petitioner from 01.08.2021 to 30.07.2022 to collect the tax at weekly market situated at Thogaimalai, Kulithalai Taluk, Karur District within the time stipulated.



W.P. (MD) .No.13006 of 2021

For Petitioner : Mr.T.Thirumugugan
For Respondents : Mr. P.Subbaraj
Counsel for State - for R1
: Mr.M.Lingadurai- for R2

W.P. (MD) .No.13006 of 2021

For Petitioner : Mr.T.Thirumugugan
For Respondents : Mr. P.Subbaraj
Counsel for State - for R1
: Mr.P.Thirukumaran- for R2

O R D E R

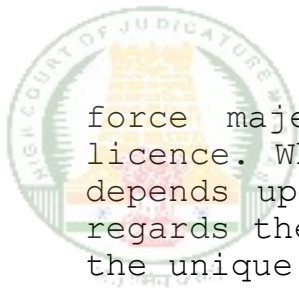
The petitioner, in each of these writ petitions, challenges a Tender Notification dated 14.07.2021 in respect of the grant of licence in relation to weekly markets at Kavalkaranpatti and Thogaimalai respectively in Kulithalai Taluk, Karur District.

2. The petitioner states that he participated in the tender pertaining to the grant of the aforesaid licence and was the successful licensee. Subsequently, the respective weekly markets were closed on account of Covid-19 pandemic. As a consequence, the petitioner was unable to realize the fruits of the licence in relation to each of these markets. In such circumstances, the petitioner was shocked to see the impugned tender notification and was constrained to file the writ petition challenging the said notification and also seeking an extension of the licence period.

3. Mr.P.Subbaraj, learned counsel for the State, submits on behalf of the first respondent that the State proceeded on the basis of the tender notification but on account of not receiving bids, decided to abandon the said tender process. As such, he submits that nothing survives with regard to the first limb of the prayer, namely, to quash the tender notification. As regards the second limb of the prayer, namely, to extend the period of licence, he submits that the same would be considered and disposed of in accordance with law.

4. Mr.Lingadurai, learned counsel for the second respondent, on the other hand, points out that the terms and conditions of licence prohibit an extension of the licence period. He also relies upon a judgment of this Court in W.P.(MD).No.10497 of 2021 dated 28.06.2021, wherein this Court held that the licence period cannot be extended if the terms of licence prohibits such extension.

5. As a general rule, the period of a licence cannot be extended unless the terms and conditions thereof enable such extension. However, in the present case, the contention of the petitioner is that the respective markets were closed on account of the Covid 19 pandemic and that the petitioner was unable to derive any benefits from the licence in spite of paying a licence fee. In effect, the contention is that the covid-19 pandemic qualifies as a



force majeure event, which would justify the extension of the licence. Whether an event qualifies as a force majeure event or not depends upon the terms and conditions of the relevant contract. As regards the State it would also be a policy decision keeping in mind the unique and unprecedented nature of Covid-19 pandemic.

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6. Subject to the above observations, W.P.(MD).No.13143 of 2021 and 13006 of 2021 are disposed of by recording the submission that the tender notification dated 14.07.2021 is not going to be acted upon by the respondent. In addition, in each case, the first respondent is directed to consider the representation dated 24.07.2021 of the respective petition and dispose of the same by a reasoned order by taking into consideration, the observations set out above and after providing a reasonable opportunity to the respective petitioner. Such reasoned order shall be passed within a period of one month from the date of receipt of a copy of this order. There will be no order as to costs. Consequently, connected W.M.P(MD).Nos.10079, 10154 & 10156 of 2021 are closed.

Sd/-

Assistant Registrar (P&A)

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/ /2021

Sub Assistant Registrar(CS)

sbn

To

1.The District Collector,
Karur District, Karur.

2.The Block Development Officer
Commissioner,
O/o.The Block Development Officer/
Commissioner,
Thogaimalai, Karur District.

+2 CC to M/s.T.THIRUMURUGAN, Advocate (SR-25298,25299[F] dated 05/08/2021)

+1 CC to M/s.SPL GP (SR-25369[F] dated 04/08/2021)

W.P.(MD) Nos.13006 & 13143 of 2021

and

W.M.P.(MD).Nos.10079, 10154 & 10156 of 2021

04.08.2021