



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.08.2021

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.14158 of 2021

and

W.M.P(MD) .Nos.11105 and 11106 of 2021

WEB COPY

S.Kavaiah

... Petitioner

Vs.

1. The Executive Officer,
Office of the Executive Officer,
Courtallam Special Grade Town Panchayat,
Tenkasi District.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned tender proceedings issued by the respondent in his proceedings Na.ka.No.46/2021/A3 dated 23.07.2021 as for as calling of Tender for the "Shencottai Road Lodge" in Column No.2 and quash the same and consequently direct the respondent to renew the licence of the petitioner for the year 2021 to 2022 and for further upcoming period of two years and thereby to extend the licence period totally to a period of 3 years from 2021 to 2024 as contemplated by G.O.Ms.No.92 dated 03.07.2007 issued by Municipal Administration and Water Supply Department of Government of Tamil Nadu.

For Petitioner : Mr.N.Sankar Ganesh
for Mr.M.P.Senthil

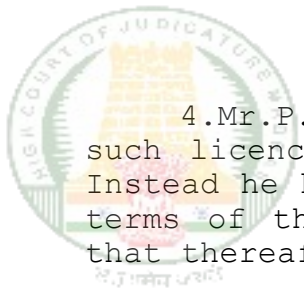
For Respondent : Mr.P.Subbaraj, Counsel for State

O R D E R

The petitioner challenges the proceedings dated 23.07.2021 whereby a fresh tender has been floated for the Shencottai Road Lodge.

2.The petitioner was granted a licence to maintain and manage a cottage in the Courtallam Town Panchayat called Shencottai Road Lodge pursuant to the tender floated in the year 2009. According to the petitioner, such tender was floated in terms of G.O.Ms.No.92 dated 03.07.2007 and that the petitioner is entitled to a renewal of such licence once every three years for a total period of 15 years. The petitioner's licence is said to have been renewed periodically up to the period 2020-2021. The petitioner states that he was very badly affected by the COVID-19 pandemic and that he was unable to run the business for a considerable length of time.

3.In response to a letter dated 23.06.2021, it is stated that he was called upon to pay a sum of Rs.3,06,403/- as arrears. The petitioner has enclosed a demand draft for the aforesaid sum and states that the respondent should accept the said sum and renew the licence for a further period of three years.



4.Mr.P.Subbaraj, learned counsel for the respondent, submits that such licences are no longer governed by G.O.Ms.No.92 dated 03.07.2007. Instead he has produced G.O.Ms.No.181 dated 19.09.2008. He states that in terms of the present G.O., the term of licence is for three years and that thereafter the respondent is required to conduct a fresh auction.

5.Since the petitioner relies heavily on G.O.Ms.No.92, the petitioner's contentions should be tested against the said document first. Paragraph 3 Clause 1 of the said document refers to the fifteen year period that the petitioner refers to. On examining the said Clause-1 of Paragraph 3, it is clear that it is an enabling clause and not a clause that imposes an obligation on the respondent to renew the licence for a period of fifteen years. In the present case, the petitioner's last extension of licence admittedly expired during this year. In addition, the petitioner had failed to remit amounts due and payable to the respondent and the respondent was constrained to issue demand notices in respect thereof. In such circumstances, the respondent cannot be faulted for initiating a fresh auction process. The impugned auction notice indicates that the last date for submission of bids is today and the auction is scheduled to be held tomorrow.

6.Learned counsel for the respondent submits that if the petitioner submits his bid today, the same would be accepted by the respondent. Such statement is recorded and learned counsel is directed to issue necessary instructions in this regard without waiting for the order copy.

7.In the aforesaid facts and circumstances, the petitioner has failed to make out a case to interfere with the auction notice dated 23.07.2021 either in terms of G.O.Ms.No.92 dated 03.07.2007 or in terms of G.O.Ms.No.181 dated 19.09.2008. Consequently, W.P(MD).No.14158 of 2021 is dismissed. However, in terms of the undertaking by the respondent, the petitioner would be entitled to participate in the auction if he tenders his bid today. There will no order as to costs. Consequently, connected W.M.P(MD).Nos.11105 and 11106 of 2021 are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To:

The Executive Officer,
Office of the Executive Officer,
Courtallam Special Grade Town Panchayat,
Tenkasi District.

Note : **Issue order copy today i.e., 12.08.2021.**

W.P. (MD)No.14158 of 2021

12.08.2021

VR

RS (12.08.2021) 2P-2C