



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

WEB COPY

W.P(MD)NO.15742 OF 2021

and

W.M.P(MD)Nos.12691 and 12692 of 2021

Sivajothi

:Petitioner

.vs.

1.The District Collector,
Thanjavur District,
Thanjavur.

2.The Commissioner,
Corporation of Thanjavur,
Thanjavur District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the impugned paper publication in a Tamil Daily namely, Dina Dhanthi, dated 11.8.2021 and a subsequent paper publication in a Tamil Daily namely, Maalai Malai, dated 30.08.2021 issued by the second respondent in respect of a shop bearing No.1 of 'A' Block situated at New Bus Stand Thanjavur District and quash the same as illegal and devoid of merits forthwith.

For Petitioner : Mr.J.Sankara Pandian.

For Respondent-1 : Mr.P.Subbaraj
Counsel for the State

For Respondent-2 : Mr.N.Dilip Kumar
Standing Counsel

O R D E R

The petitioner challenges an auction-cum-tender notification dated 11.08.2021 relating to an auction-cum-tender scheduled on 25.08.2021.

2.The petitioner states that he was issued a licence to operate a shop at the New Bus Stand, Thanjavur District. Pursuant thereto, he has been running the shop. By referring to a communication dated 16.06.2020 from the Commissioner of the Municipality, the petitioner points out that the licence was to be renewed from 01.04.2019 and that the petitioner was called upon to remit the necessary license fee for such renewal. Pursuant thereto, it is stated that the petitioner remitted the requisite licence fee periodically until December 2020. The auction-cum- tender



notification is, therefore, challenged on the basis that the petitioner is entitled to continue to run the shop concerned as a licensee.

3. Mr. P. Subbaraj, learned counsel for the State accepts notice on behalf of the first respondent and Mr. Dilip Kumar, learned Standing counsel accepts notice for the second respondent. Mr. Dilip Kumar submits that the auction-cum-tender was conducted on 01.09.2021. At such auction, the licence in respect of the relevant shop was issued in favour of one Mr. Ramesh at a licence fee of Rs. 75,000/- + GST per month. He points out that the petitioner herein pays a sum of about Rs. 56,941/- per month as licence fee.

3. A licence, by its very nature, is revocable. However, the State or an instrumentality thereof is required to act in a non-discriminatory and non-arbitrary manner. Subject to such requirement, the State also is entitled to revoke a licence or grant a new licence pursuant to a transparent tender or auction process. In the case at hand, the petitioner is required to establish that his licence remains in force. The only documents produced in such regard are receipts relating to payment of licence fees. The last of such receipts indicates payment of licence fees for the month of December, 2020. Therefore, the petitioner has completely failed to establish that he continues to hold a valid licence.

4. In such circumstances, the second respondent is certainly entitled to grant a new licence pursuant to auction-cum-tender process. In fact, it is pointed out by learned standing counsel for the second respondent that the licence for the relevant shop has been issued to one Mr. Ramesh at a much higher licence fee than that paid by the petitioner herein. As such, no interference is warranted. Therefore, W.P. (MD) No. 15742 of 2021 is dismissed without any order as to costs. However, subject to the observations herein, it is always open to the petitioner to challenge the grant of licence to Mr. Ramesh in accordance with law. Consequently, W.M.P (MD) Nos. 12691 and 12692 of 2021 are dismissed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

vsn

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 District Collector,
Thanjavur District,
Thanjavur.

2.The Commissioner,
Corporation of Thanjavur,
Thanjavur District.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-28285[F] dated 06/09/2021)

+1 CC to M/s.GP (SR-28213[F] dated 06/09/2021)

W.P (MD) NO.15742 OF 2021

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RD(14.09.2021) 3P 5C