



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD).No.16774 of 2021

and

W.M.P(MD).Nos.13650, 13652 and 13653 of 2021

WEB COPY

S.Selvarani

... Petitioner

Vs.

The Tanjore Municipal City Corporation,
Rep by its Commissioner,
Gandhi Salai,
Tanjore District.

... Respondent

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 Na.Ka.No.10832/2021/MCA5 dated 07.09.2021 on the file of the first respondent and quash the same as illegal and consequently forbear the respondent from evicting the petitioner without following the due process of law.

For Petitioner

: Mr.T.Lajapathi Roy

For Respondent

: Mr.P.Athimoolapandian
Standing Counsel

ORDER

The petitioner challenges a communication dated 07.09.2021 of the first respondent. The petitioner states that she was granted a lease for the Naesey Snacks Kiosk STD Cell Park Multipurpose Shop at Tanjore New Bus stand by the first respondent in the year 2015. It is stated that the petitioner has been paying the rent fixed for such purpose without fail.

2.The petitioner relies upon G.O.Ms.No.92, dated 03.07.2007, whereby guidelines were laid down with regard to the renewal of leases or licenses relating to such shops. The petitioner alleges that the impugned communication was issued in contravention of G.O.Ms.No.92 as also the principles of natural justice. In specific, it is asserted that the impugned communication refers to and relies upon a report dated 07.09.2021 of the Revenue Inspector. However, such report was not provided to the petitioner. In addition, it is pointed out that the impugned communication grants only three days to the petitioner to show cause. As regards the merits of the show cause notice, the petitioner states that the shop was allotted to the petitioner not only to run a STD booth, but also to sell snacks and related products. The communication dated



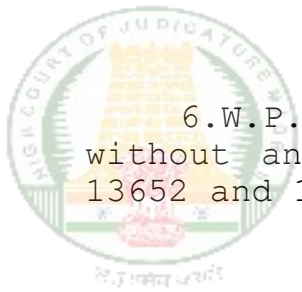
15.06.2015 is referred to for the purpose of substantiating that the shop was allotted not only for purpose of a STD booth. The petitioner also strongly refutes the allegation that there was subletting or that the petitioner was using more than the allotted space.

WEB COPY

3.Mr.P.Athimoolapandian, learned Standing Counsel, accepts notice for the Tanjore Municipal Corporation. On instructions, he submits that the Corporation took possession of the relevant shop on 13.09.2021 and sealed the shop. He further submits that all shops in the relevant area have been removed. New shops have been constructed and such shops would be allotted on auction basis. He states that it is open to the petitioner to apply for allotment of shops in the newly constructed area. He also submits that the relevant licence of the petitioner was not extended beyond 31.03.2021.

4.On perusal of the impugned communication, it is evident that it is in the nature of a show cause notice. In judicial review, ordinarily, a show cause notice is not interfered with. However, the petitioner challenges the communication on two main grounds. First, the petitioner states that the three day time limit to show cause is unreasonable. Secondly, the petitioner states that the report of the Revenue Inspector dated 07.09.2021 was not furnished to the petitioner. Both these contentions are liable to be accepted. If an authority proposes to rely upon a document, the recipient of a notice should be provided a copy of such document so as to enable such party to effectively show cause. Likewise, a three day time limit to show cause is unreasonable and not less than fifteen days should be provided for such purpose. At the same time, it should be noted that the Corporation submits that possession of the relevant shop was taken on 13.09.2021.

5.In the facts and circumstances set out above, the respondent is directed to provide a copy of the Revenue Inspector's report dated 07.09.2021 to the petitioner within a period of one week from the date of receipt of a copy of this order. Upon receipt thereof, the petitioner is permitted to submit a further explanation to the show cause notice within a period of fifteen days from the date of receipt of the Revenue Inspector's report. Upon receipt of such further explanation, the Corporation is directed to consider such explanation and dispose of the same by a reasoned order within a period of thirty days from the date of receipt of such explanation. Until such time, the respondent Corporation is restrained from granting an allotment of the relevant shop to any other person. It is made clear that this order will not stand in the way of the petitioner applying for allotment of shops in the newly constructed complex through a tender-cum-auction or otherwise.



6.W.P.(MD).No.16774 of 2021 is disposed of on these terms without any order as to costs. Consequently, W.M.P.(MD)Nos.13650, 13652 and 13653 of 2021 are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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

The Commissioner,
Tanjore Municipal City Corporation,
Gandhi Salai,
Tanjore District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-29801[F] dated 21/09/2021)

**W.P (MD) .No.16774 of 2021
20.09.2021**

RS (27.09.2021) 3P 3C