



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.10.2021

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.18514 of 2021

and

W.M.P. (MD)Nos.15287 and 15288 of 2021

WEB COPY

N.Vanjimuthu

... Petitioner

Vs.

1.The Commissioner of Prohibition & Excise,
Ezhilagam Main Road,
Chepauk,
Chennai-600 005.

2.The District Collector,
Dindigul district.

3.The Assistant Commissioner,
Prohibition & Excise Department,
Dindigul,
Dindigul District.

4.R.Rajangam

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 1st respondent herein in Moo.Mu.No.Ma(Ma)AA 2(1)/5147/2015, dated 04.09.2021, granting renewal of FL.3 licence to the 4th respondent quash the same and consequently forbearing the respondents 1 to 3 herein from allowing the 4th respondent from running the Bar premises with FL.3 licence meant for Star Hotel without fulfilling definitions and procedures under the Rules, online application and online process of computer generating renewal procedure.

For Petitioner : Mr.K.Sugumaran

For R1-R3 : Mr.D.Ghandiraj

Government Advocate

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 1st respondent herein in Moo.Mu.No.Ma(Ma)AA 2(1)/5147/2015, dated 04.09.2021, granting renewal of FL.3 licence to the 4th respondent quash the same and consequently forbearing the respondents 1 to 3 herein from allowing the 4th respondent from running the Bar premises with FL.3 licence meant for Star Hotel without fulfilling definitions and procedures under the Rules, online application and online process of computer generating renewal procedure.



2.The petitioner claims that he is a Managing Director of a Company called M/s.Gowri Tourist Home Private Limited, where he is running a Tourist Home, wherein a portion has been leased out to the fourth respondent to run the Bar with FL.3 licence.

3.According to the petitioner, the licence was over by the year 2007, as the lease has come to an end between the management of the Tourist Home and the fourth respondent. However, unmindful of the same, according to the petitioner, the fourth respondent continued to run the Bar for several years and in this regard, the petitioner claimed that the Rent Control Original Petition in RCOP No.14 of 2016 had been filed before the District Munsif (Rent Controller), Dindigul, and also a Civil Suit in O.S.No.205 of 2015 had been filed before the Principal District Munsif Court, Dindigul and when these litigations were pending, the fourth respondent does not have any right to claim renewal of FL.3 Licence for the Bar to be conducted at the premises of the petitioner's company i.e., the Tourist Home.

4.In this context, it is to be noted that, in order to get the FL.3 licence, an application seems to have been already filed by the fourth respondent and he had also filed a writ petition before this Court in W.P.(MD)No.20920 of 2017, where the final order was passed by the Writ Court dated 16.03.2021, where observations have been made and directions have been given to the licensing authority to consider the application submitted by the fourth respondent herein, who was the writ petitioner therein as renewal application for FL.3 licence, for which, a fresh application for the year 2020-21 can be filed by the fourth respondent herein and if any such application is filed, that the same can be decided on merits.

5.Felt aggrieved over the said Order dated 16.03.2021, the present writ petitioner filed an Intra-Court Appeal in W.A.(MD) No.914 of 2021, where the Division Bench of this Court, by Judgment dated 30.04.2021, by giving reasons, set aside the directions and observations given by the Writ Court and ultimately, they have taken note of the fact that pursuant to the Writ Court Order dated 16.03.2021, a fresh application has been filed by the fourth respondent herein and accordingly, the Division Bench, at Para 15 of the Judgment referred to above has made an observation that a fresh representation shall be submitted by the fourth respondent along with the copy of the judgment of the Division Bench dated 30.04.2021, based on which, a fresh decision can be taken by the licensing authority.

6.Pursuant to the order and Judgment passed by the Writ Court as well as the Writ Appellate Court, the licensing authority, by the impugned order dated 04.09.2021, has renewed FL.3 licence to and in favour of the fourth respondent, either upto 31.03.2022 or till a decision is made by the Rent Controller Court or Civil Court in the above referred R.C.O.P.No.14 of 2016 or the civil suit, whichever is



earlier. Felt aggrieved over the said order, the present Writ Petition has been filed with the aforesaid prayer.

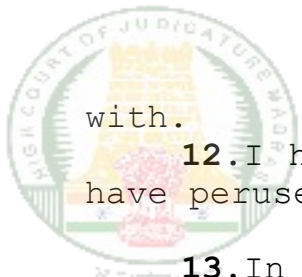
7.Mr.K.Sugumaran, learned counsel for the petitioner has pointed out that though certain directions were given by the Writ Court, by order dated 16.03.2021 in the Writ Petition filed by the fourth respondent, all those directions and observations made by the Writ Court have been set aside by the Division Bench in its Judgment dated 30.04.2021 and therefore, the authority if at all wants to consider the application submitted in this regard by the fourth respondent, that should have been considered strictly in accordance with the observations made by the Division Bench.

8.In this context, the learned counsel for the petitioner further submits that, in the Judgment of the Division Bench dated 30.04.2021, it has been strongly observed that the Writ Court ought not to have given any opinion about the nature of the application submitted by the fourth respondent, as the said application cannot be treated as renewal application and the said issue should have been left open to the authority concerned to decide as to whether the application can be treated as fresh application or application for renewal. Therefore, by giving these reasons, the entire directions given by the Writ Court having been set aside by the Division Bench, further observation has been made that the licensing authority should decide such application if any to be made in this regard by the fourth respondent strictly in accordance with such observations and the licensing authority ought to have decided the application if any submitted, only in accordance with such directions and observations made by the Division Bench in its Judgment dated 30.04.2021. However, contrary to the same, the present order has been passed, which is impugned herein, he contended.

9.In this context, he was very particular about that pursuant to the Division Bench Judgment, no fresh representation as directed by the Division Bench has been made by the fourth respondent. When that being so, the entire order dated 04.09.2021, which is impugned herein, is vitiated, therefore, on the limited point, the learned counsel appearing for the petitioner seeks indulgence of this Court to set aside the impugned order.

10.I have heard the learned Government Advocate appearing for the official respondents and he made submissions to sustain the order, which is impugned, on the ground that the impugned order has been passed by taking into account the observations and directions given by the Division Bench in its Judgment referred to above in strict terms.

11.In view of the decision, that is going to be taken at the admission stage, notice to the fourth respondent is hereby dispensed



with.

12.I have heard the rival submissions made by both parties and have perused the materials placed before this Court.

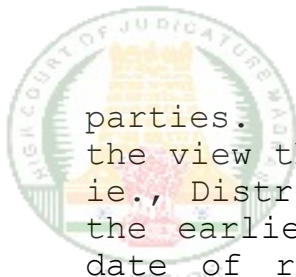
13.In the impugned order at reference column, after the Division Bench Judgment dated 30.04.2021, it is referred that the fourth respondent had appeared before the licensing authority on 09.06.2021 and has given written statement, that has been recorded by the licensing authority. Thereafter, the present writ petitioner has given representation dated 20.05.2021, which was received by the licensing authority on 15.06.2021.

14.After having receipt of the representation, by way of statement personally made by the fourth respondent before the licensing authority as well as the counter representation given by the writ petitioner herein, the licensing authority having considered the issue in detail, passed the order, wherein the Rent Control Original Petition as well as the Civil Suit, which were filed and pending between parties, had been taken note and accordingly, this is not only for the limited period, but either upto 31.03.2022 or till a decision is made by the Rent Controller Court or Civil Court in the above referred R.C.O.P.No.14 of 2016 or the civil suit, whichever is earlier. The licence was renewed.

15.Therefore, the said order, in the considered opinion of this Court, after having gone through the observations made by the Division Bench Judgment referred to above, is not in violation of the directions or observations made by the Division Bench of this Court as projected by the learned counsel appearing for the petitioner. Therefore, the impugned order cannot be interfered with.

16.Moreover, the licence has been renewed only, till 31.03.2022, or till the decision is taken by the Rent Controller Court or Civil Court. That means if any decision has come in favour of the petitioner and against the fourth respondent either from the Rent Controller Court or from the Civil Court, that will prevail over the date 31.03.2022 and on that date, automatically the licence would come to an end. Therefore, it is only a limited relief that has been given by the licensing authority by extending the licence to the fourth respondent and therefore, the said order does not warrant interference from this Court.

17.Hence, the Writ Petition fails, accordingly, it is liable to dismissed. At the same time, this Court also feels that, while setting aside the entire directions given by the Writ Court dated 16.03.2021, by the Division Bench Judgment dated 30.04.2021, the directions given by the Writ Court to the Rent Controller Court to decide R.C.O.P.No.14 of 2016 within the time frame since also having been set aside, that will run contra to the interest of both the



parties. Therefore, this Court, in the interest of justice, is of the view that, a direction can be given to the Rent Controller Court ie., District Munsif, Dindigul, to dispose R.C.O.P.No.14 of 2016, at the earliest, preferably, within a period of six months from the date of receipt of a copy of this order and it is needless to mention that depending upon the decision to be made by the Rent Controller Court, the licence which has been renewed to and in favour of the fourth respondent through the impugned order would be worked out.

18. With these observations, this Writ Petition is disposed of. However, there shall be no costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

// 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

1. The Commissioner of Prohibition & Excise,
Ezhilagam Main Road,
Chepauk, Chennai-600 005.
2. The District Collector,
Dindigul district.
3. The Assistant Commissioner,
Prohibition & Excise Department,
Dindigul, Dindigul District.

Copy to

The District Munsif,
(Rent Controller Court) Dindigul.
+1 CC to M/s.SPL.GP (SR-32086[F] dated 21/10/2021)

W.P. (MD) No.18514 of 2021
20.10.2021

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